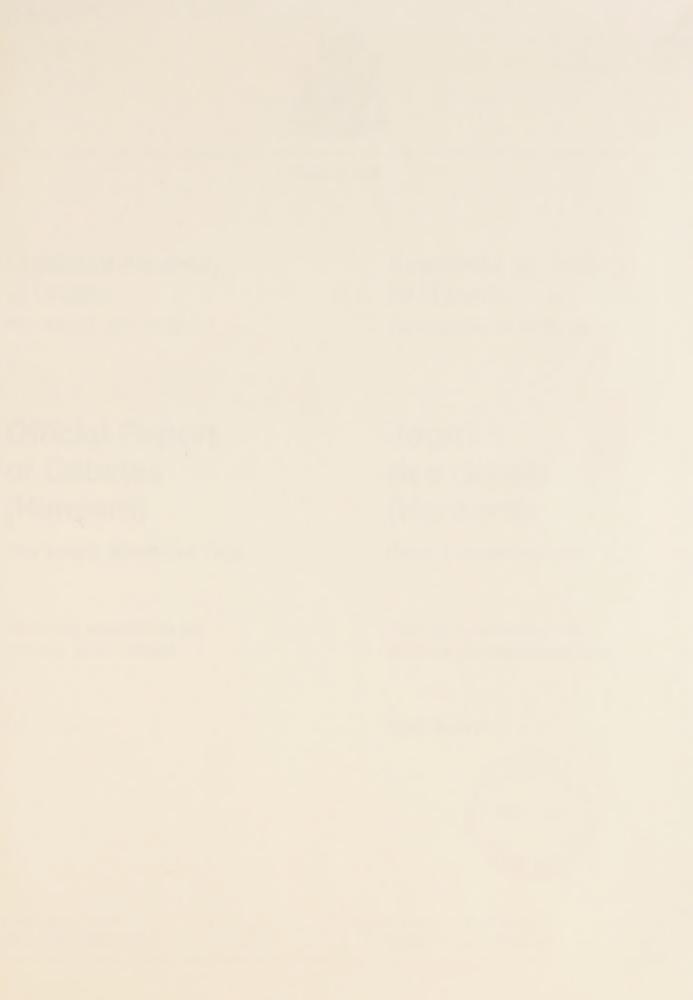


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Legislative Assembly of Ontario

First Session, 36th Parliament

Official Report of Debates (Hansard)

Thursday 2 November 1995

Standing committee on general government

Organization

Assemblée législative de l'Ontario

Première session, 36e législature

Journal des débats (Hansard)

Jeudi 2 novembre 1995

Comité permanent des affaires gouvernementales

Organisation



Président : Jack Carroll Greffière : Tonia Grannum

Chair: Jack Carroll Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 2 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 2 novembre 1995

The committee met at 1710 in committee room 1. ELECTION OF CHAIR

Clerk of the Committee (Ms Tonia Grannum): Gentlemen, it's my duty to call upon you to elect the Chair. Are there any nominations?

Mr Terence H. Young (Halton Centre): I'd like to nominate Jack Carroll as Chair of the committee and Bart Mayes as Vice-Chair.

Clerk of the Committee: We're just doing Chair right now. Are there any further nominations? Seeing no further nominations, I declare Mr Carroll elected as Chair of the general government committee.

ELECTION OF VICE-CHAIR

The Chair (Mr Jack Carroll): All right, honourable members, may I have names for the election of Vice-Chair.

Mr Young: I'd like to nominate Bart Maves as Vice-Chair.

The Chair: Bart Maves is nominated for Vice-Chair. Are there any further nominations? If not, there being no further nominations, I declare the nominations closed and Mr Bart Maves elected Vice-Chair.

I understand that Mr Flaherty has a motion.

APPOINTMENT OF SUBCOMMITTEE

Mr Jim Flaherty (Durham Centre): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee; that the presence of all members of the subcommittee is necessary to constitute a meeting; and that the subcommittee be composed of the following members: Mr Carroll, Mr Hardeman, Mr Sergio, Mr Marchese; and that any member may designate a substitute member on the subcommittee who is of the same recognized party.

The Chair: All those in favour of the motion? Motion carried.

That's about the end of the agenda. I call for any other business.

BRIEFING

Clerk of the Committee: The researcher and I have a briefing that we could go through. Did anybody want to do that today? Is that fine? Okay.

I'm just going to go over the powers of the Chair in a standing committee. They are essentially the same as that of the Speaker in the House. The Chair maintains order and decorum and decides all questions of order and procedure.

The decision of a Chair is not debatable and is only subject to appeal by a majority of members. That is in the form of a motion directing a decision by the Speaker on the Chair's ruling, and that is covered under standing order 120.

Normally the Chair doesn't vote, as some members are aware, just that in the case of a tie the Chair would vote. He'd cast the deciding vote, and that is to maintain the status quo. The Chair also does not usually take part in committee business, but he does have the right to secure the progress of the committee and make sure the committee is proceeding in order.

The role of the clerk of the committee, that's myself, is that of an impartial servant of the House. I'm assigned to work with the committee of the House and I'm the principal adviser of rules and procedures for this committee. I work in main contact with the Chair, but any questions that the committee has, they can contact my office, and either myself, or if I'm not available, my assistant, who's actually sitting in the room, Monica Marshall, would get the information to me so I can contact you and give you information.

The committees have various methods of having work assigned to them. We all know of a bill being designated to the committee. If that occurs, then we'd set our subcommittee meeting and perform organization to discuss how we're going to deal with the bill.

A matter can also be designated under the 125 designation, and that is, each caucus in one calendar year can designate a matter to be discussed by the committee for up to 12 hours in the committee. The subcommittee on committee business would then look at the details on who's going to be heard and how we're going to proceed with that 12 hours of the designated matter in committee.

The ministries that are found under general government—this is the old list of ministries that came into effect in 1989. It will have to be changed because of the realignment of the committee structure, but I just wanted to let you know just so you'd get a broad idea. We've got Management Board of Cabinet under the old list; Citizenship; Culture and Communications; Housing; Intergovernmental Affairs; Municipal Affairs; native affairs; women's issues; francophone affairs; the Premier's office and the cabinet office. But keep in mind the realignment because of the new ministries.

We can also deal with subjects under standing order 108, and that is when the committee usually agrees. They'd have to agree on dealing with an issue, and they determine the time etc. But that's under agreement.

I think that's about it. I'll let Jerry Richmond go over his role as our researcher. He's the researcher on the committee.

Mr Jerry Richmond: Thank you, Tonia. Mr Chair, Vice-Chair, members, some of you I know from previous parliaments, some of you I recognize from the last few weeks in terms of meetings we've had with individual members, and some of you I recognize from research reports that we in legislative research have prepared for you. I'm obviously here from legislative research and I'll just speak very briefly to give you some sense of our role.

Those of you who've become familiar with us in terms of serving you as individual members would know of our individual research function to you as MPPs. We also serve committees in a non-partisan capacity, in providing research support to the committee in terms of the matters before the committee. From my experience, committees may deal with bills—and you'll become very familiar with this—where they may hear public deputants speaking to the bill, or they may deal with other public policy issues, whereupon the committee prepares a report.

Very briefly, our major functions:

Normally when a bill is before the committee—and those of you who were here prior to the election would know of this, like you, Mr Turnbull—we prepare summaries of the deputations. They are usually related to the various sections of the bill and they give a sense of what the various witnesses have said for or against or whatever they may say in relation to the bill. That summary is designed to assist the committee during its deliberations and ultimate clause-by-clause consideration of the bill.

When the committee is dealing with a substantive public policy issue, and the issues can be from A to Z, we would assist the committee in the drafting of your report, which would eventually be tabled in the House.

Along the way, we also provide miscellaneous research support to the committee. We work under the direction of the Chair and we work very closely with the clerk, and often we have an unofficial liaison role with the ministries, with ministry staff who are often before the committee to provide technical briefings.

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In terms of research support, through the Chair or through any of you as individual members, we can be asked to provide research analyses of issues related to the topic before the committee. Some examples I can think of—let's say we were dealing with, just hypothetically, workers' compensation. One issue might be and one research request—and this has come up in the past—may be, let's say, to analyse the WCB provisions in some other province or state and assemble information on that and table it before the committee as a matter of comparison. I'm just using that as an example.

These individual research requests can originate from you, Mr Chair, or from the individual members, or the individual members can come to us privately. There may be an issue that possibly you, Mr Marchese, as a member of the committee, or any other member might personally be interested in. You can come to us privately and we

would conduct research as an individual research request for any of the members of the committee. Really, we're here to serve you in the best capacity that we can.

Other situations I can recall: Sometimes the committee may want us, on behalf of the committee, to seek out technical information or statistics from the ministry involved that's before the committee. We would do that on your behalf, possibly meet with ministry officials. Often the ministries when they're before the committee would have technical people here each day, and often they're available to brief you, but sometimes technical questions come up and we would, on your behalf, assist in the obtaining of the appropriate information.

I hope that gives you some sense of it. There are many other research queries. I could list examples from A to Z, but very briefly I hope that's given you some sense of the work that we do. We're here to serve you. I don't know whether there are any questions, but I look forward to working with you.

I should just add, I understand you're doing Bill 8 and I myself will not be working with you on that. One of our specialists in employment equity or job quotas, whatever the term is these days, will be working with you on that matter, if that is in fact—

Mr Rosario Marchese (Fort York): Who's working on that? Who's the researcher?

Mr Richmond: I'm not 100% sure, but it'll be one of our people, who I'm sure you know, who has more technical expertise in that topic than I do.

I don't know if there are any questions. Otherwise I thank you for the opportunity.

The Chair: Thanks, Jerry. Any questions for either Jerry or Tonia?

Mr Ernie Hardeman (Oxford): I'm just wondering, Tonia, you mentioned earlier about the Chair's vote. Could I get that again?

Clerk of the Committee: The Chair would only cast a vote if he has to cast a vote in deciding a tie, and in casting a deciding vote, he's usually casting the vote to maintain the status quo. So that would be further debate on a bill or further debate on any issue. If we were going to vote to report a bill to the House, as opposed to continuing debate on that bill, he would vote to continue debate on that bill.

Mr Hardeman: So the reality is that the Chair doesn't vote, only that the negative vote is always lost, or the tie vote is always lost, because the Chair is being told how to vote?

Clerk of the Committee: No. There are guidelines for the Chair in voting, and that would be to maintain the status quo on whatever issue we're dealing with, on any amendment, to maintain the status quo so that there is further debate. That's the guideline.

Mr Hardeman: Thank you.

Mr Mario Sergio (Yorkview): The Chair, I understand, never votes to create a tie.

Clerk of the Committee: No. Only in the case of a tie.

The Chair: To break a tie, not to create one.

Mr Sergio: I understand, but there are situations when it could be one vote difference and a Chair may vote to create a tie. I hope that is not the case.

The Chair: No, the rules, as I understand—

Mr Sergio: That's fine.

Mr Marchese: I'm assuming that the members might be organizing some meetings to talk about rules and procedures in committee.

If they haven't organized that, it's probably useful for the members to go through that. I'm not sure, I suspect Tonia or others would be very interested in organizing some discussion around rules and procedures of committee. It would be very useful to the members.

The Chair: We did have a meeting, Mr Marchese.

Mr Young: We've had a couple, actually.

The Chair: We've actually had two meetings so we're not totally up to speed, but we're off the launching pad anyway.

Mr Young: On an administrative issue, would it be possible to get a sheet made up with all the members of the committee with telephone numbers and also our researcher etc? That would be very handy to have.

Clerk of the Committee: Okay.

Mr Sergio: How much in advance will we have the necessary information or agendas?

Clerk of the Committee: Usually you receive it the Friday before a Thursday meeting, because if we're in a Thursday meeting and I'm aware that we're going to be meeting the following Thursday, then we work on that basis. So the Friday we would be doing all the notices, sending them out to your offices and in the House. So if you don't receive a notice, we're not meeting. If you have any questions about that, just call my office.

The Chair: As it stands now, we know we will be meeting the first Thursday.

Clerk of the Committee: So we're going to be meeting November 16, the next meeting?

The Chair: Right.

Mr Marchese: That's what I wanted to speak to. Is that under other business?

Clerk of the Committee: No, just the briefing was.

Mr Marchese: Because I wanted to be clear about that. Are we informing the public that there are going to be discussions that will begin November 16?

Clerk of the Committee: No. It's all hypothetical because the bill hasn't yet been referred to committee, so we'd need to have our subcommittee meeting to decide what we're going to do.

Mr Marchese: That's what I needed to raise with you. I'm assuming that once this is passed tonight, which I presume will be the case, the subcommittee will then meet quickly next week some time early in order to give plenty of notice to people who would want to come and make submissions to the committee. Is that correct?

Clerk of the Committee: The Chair would advise me, then I'd notify the committee.

The Chair: We have to have a subcommittee meeting before we can do anything else. Can we have a subcommittee on a conference call, or it would have to be a physical meeting?

Clerk of the Committee: No, you can have a conference call.

Mr Marchese: We could, Mr Chair, but I would recommend that we have one early next week so that we can be clear about what we're going to do. Once having done that, then we can move to our business.

The Chair: I think since it is constituency week, if we can arrange on Monday a conference call for the subcommittee so that we can set about the—

Mr Marchese: Sure. I wouldn't mind leaving my telephone number so that people would have that, and the various members of the subcommittee should provide you with their numbers.

The Chair: If that's acceptable, since we're all going to be back in our ridings, we could set up a time and advise everyone of that. Any other questions? No other business?

Mr Marchese: I move adjournment, Mr Chairman.

The Chair: I just want to make one comment. I know this was really called at quick notice and I appreciate everybody's cooperation in getting together. It helps to move the agenda along, so thank you very much to everybody. The meeting is adjourned.

The committee adjourned at 1728.





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STANDING COMMITTEE ON GENERAL GOVERNMENT

- *Chair / Président: Carroll, Jack (Chatham-Kent PC)
- *Vice-Chair / Vice-Président: Maves, Bart (Niagara Falls PC)
- *Danford, Harry (Hastings-Peterborough PC)
- *Flaherty, Jim (Durham Centre PC)

Grandmaître, Bernard (Ottawa East/-Est L)

*Hardeman, Ernie (Oxford PC)

Kells, Morley (Etobicoke-Lakeshore PC)

*Marchese, Rosario (Fort York ND)

Pupatello, Sandra (Windsor-Sandwich L)

*Sergio, Mario (Yorkview L)

Stewart, R. Gary (Peterborough PC)

Tascona, Joseph N. (Simcoe Centre PC)

- *Wood, Len (Cochrane North/-Nord ND)
- *Young, Terence H. (Halton Centre PC)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Richmond, Jerry, research officer, Legislative Research Service

^{*}In attendance / présents

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First Session, 36th Parliament

Official Report of Debates (Hansard)

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Standing committee on general government

Job Quotas Repeal Act, 1995

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Première session, 36e législature

Journal des débats (Hansard)

Jeudi 16 novembre 1995

Comité permanent des affaires gouvernementales

Loi de 1995 abrogeant le contingentement en matière d'emploi



Président : Jack Carroll Greffière : Tonia Grannum

Chair: Jack Carroll Clerk: Tonia Grannum

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STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 16 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 16 novembre 1995

The committee met at 0939 in committee room 1.

The Chair (Mr Jack Carroll): Good morning, everyone. Welcome to the first meeting of the first committee of the 36th Parliament. The order of business will be that we have a subcommittee report. First of all, a subcommittee has been established, for those of you who are not aware of that, which includes one member from each of the three parties, plus myself as the Chair. Those people are Tony Clement from the government party, Rosario Marchese from the third party and Mario Sergio from the official opposition. We've met twice.

Mr Bernard Grandmaître (Ottawa East): Mr Chair, if I'm not mistaken, I'm the rep on the subcommittee.

The Chair: Oh. Mario was here.

Mr Grandmaître: Mario was replacing me.

The Chair: Okay.

Mr Grandmaître: You can have my pay, though.

Clerk of the Committee (Ms Tonia Grannum): The motion said Mario Sergio was the member of the subcommittee, and that was voted—

Mr Grandmaître: You've got a job.

Mr Mario Sergio (Yorkview): Certainly the motion didn't come from me.

The Chair: So we can correct that?

Clerk of the Committee: Well, we'd have to amend that motion for membership on the subcommittee.

Mr Sergio: If it's in order, then I would so move right now and correct it. You recall we had a number of discussions because—as long as we had a member to attend. Presumably it was assumed that I would be the whip on our side here, but that was not the case. That was only to carry on with the business of establishing the committee.

Clerk of the Committee: Okay. Is somebody going to move the amendment to that subcommittee motion?

Mr Sergio: I will so move.

The Chair: It has been moved that Mr Grandmaître be the member for the opposition party on the subcommittee. Any discussion on that? All those in favour? It's carried.

Could I ask everyone to turn their name tags around? My memory's not that good.

Now that we've gotten that little bit of business out of the way, the subcommittee has met on two occasions. You have a copy of—

Interjections.

Mr Sergio: This is for the benefit of the public.

SUBCOMMITTEE REPORT

The Chair: I would like to read through this and then we will have discussion on this report:

Your subcommittee met on November 3 and 9 and recommends the following with respect to Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario:

"1. That five days be allotted for public hearings, the days being: Thursday, November 16; Friday, November 17; Thursday, November 23; Friday, November 24, and Monday, November 27, 1995.

"That of the five days, the committee sit in the evenings of Friday, November 17, and Thursday, November 23, 1995, provided permission is granted by the House leaders for the committee to sit on days other than those set out in the committee schedule, and provided permission is granted for the committee to sit past its normal adjournment time.

"That the afternoon of Monday, November 27, 1995, be set aside for clause-by-clause consideration.

- "2. That witnesses be allotted 20-minute time slots, and that witnesses scheduled for evening hearings be allotted 15-minute time slots.
- "3. That each caucus provide the clerk of the committee with a list of witnesses to be scheduled along with any individual or organization that phones the Clerk's office requesting to appear before the committee by the agreed upon deadline.
- "4. That those individuals or organizations which phone in after the deadline be placed on a waiting list to be scheduled only in the case of a cancellation.
- "5. That the researcher prepare as complete a summary of recommendations as possible prior to clause-by-clause consideration.
- "6. That the clerk of the committee contact the Chair and/or subcommittee with any concerns surrounding scheduling."

Is there any discussion on the report of the subcommit-

Mr Grandmaître: Item number 4 of the report of the subcommittee: I received a letter from OPSEU claiming that a fax was sent to the clerk on time on November 8, requesting to appear before this committee, but apparently their fax didn't reach the Clerk's office, or something happened. Again, they are requesting that they should be added to the list of witnesses to appear before this committee. I think OPSEU has a big interest in Bill 8 and I would like to see OPSEU part of the list of witnesses.

Mr Sergio: Are they part of the waiting list?

Mr Grandmaître: Yes.

Clerk of the Committee: They are on the waiting list.

The Chair: If I can just give you the details, I've had conversations with Mr Little from OPSEU. Everyone was apprised of the deadline, and 92 people did come in under the deadline. Mr Little called me and said he had faxed in a letter. I asked him to, if he could, produce the evidence of that. He's not been able to do that. His office is in this same building. I've advised him that he is on the waiting list, along with some other people who also didn't meet the deadline. In the absence of any other documented evidence, I believe that was the fair way to handle that.

Mr Grandmaître: If I'm not mistaken, Mr Chair, they're number seven on the waiting list?

Clerk of the Committee: Yes, they are.

The Chair: Apparently.

Mr Grandmaître: And there's nothing we can do at the present time to change this?

The Chair: I believe we need to have the rules apply equally to everyone. They missed the deadline and were given an opportunity to prove that they did in fact send a fax and they weren't able to do that. There's a good possibility they will be on, because we do have some time slots open. There have been some cancellations, so hopefully we can accommodate them.

Mr Grandmaître: Thank you, Mr Chair.

Mrs Sandra Pupatello (Windsor-Sandwich): I just wanted to note, Jack, that if you and I had to produce that little slip as proof of sending a fax, I couldn't do it because it's not typical standard procedure in our office. But given the mixup, maybe we can give them special consideration, like perhaps moving them to the top of the waiting list, because there is at least some thought that they have made an attempt to appear. Given that, while you don't want to change the rule, let's add them at the top so there is a great likelihood that they will appear.

The Chair: To put them at the top of the waiting list, we would be moving them ahead of some other large organizations

Mrs Pupatello: Who would have submitted later than OPSEU, right?

The Chair: Yes.

Mrs Pupatello: So just given that-

Clerk of the Committee: We don't know that.

Mrs Pupatello: Well, I guess we've got to admit, all of us, that it's a significant group that has a high stake in terms of the discussions. So just in terms of that, whether it's going to be generosity of spirit or whatever, maybe we could do something other than just leaving it.

Mr Rosario Marchese (Fort York): I appreciate the sentiments that my colleagues are expressing on their side, but it would be very difficult if we did that, because that really changes the rules a great deal. The Chair has expressed some sympathy to the fact that they say they made an attempt to do so, but there is no record of it, and what they've done is to put them on the waiting list.

That's important to us, to make sure that they're on the waiting list, based on an assumption that they did, although we have no record of it.

There are six other people who were late and are on that list and certainly want to be on that as well, so I wouldn't want to change the rules, because that would complicate life for the Chair and this committee if we did that. So I'm happy that they're on the waiting list and hopefully they'll get on, assuming that some other people may not be as excited to come. So that's that on this point.

I have another matter to raise, Mr Chair. Do you want to deal with this first and then put me back on the list for the other matter?

The Chair: Okay. Mr Clement?

Mr Tony Clement (Brampton South): The only other point, in furtherance of what Mr Marchese has just said, is that it's not as if we're completely shutting out OPSEU, because there is an opportunity for written submissions as well, but my earnest hope is that we will have an opportunity to hear from them as cancellations become evident.

The Chair: Any other comment? I believe it was the only fair way to handle the situation. There was a set of rules; 92 people understood the rules. OPSEU had an opportunity to prove that they came in within the deadline. They weren't able to do that, so I think that decision probably has to stand.

Mr Marchese: I'd like to add something to this. I want to be clear about the time allocation for all the individuals. If we have five days, we can hear from about 68 people.

Clerk of the Committee: No, all 92.

Mr Marchese: Within the daytime allocation. So 68 or so? And we have three other evenings where we—

Clerk of the Committee: Two.

Mr Marchese: Two. That's right. Tomorrow night and next week some time.

The Chair: Next Thursday.

Mr Marchese: How many are we going to be able to hear during those two night sittings?

Clerk of the Committee: Those two nights? Twenty-two in the evening.

Mr Marchese: So that brings us approximately to 90 people; to the 92, presumably.

Clerk of the Committee: To the 92.

Mr Marchese: All right. So if we wanted to, this committee could agree to sit another evening, an hour or an hour and a half, in order to accommodate the other seven people who are on the list. We could do that.

0950

The Chair: There are actually 16 currently on the waiting list.

Mr Marchese: I see.

Clerk of the Committee: If I could just mention that.--

Mr Marchese: Clause-by-clause is something that interests me. How much time is there left for clause-by-clause if we do all of this?

Clerk of the Committee: Monday afternoon.

Mr Marchese: The whole afternoon?

Clerk of the Committee: From 3:30 to 6. The evening of the 17th isn't all scheduled, and we're calling people back and then offering the waiting list, because some people have cancelled and some people don't want to come in the evening of the 17th. So if they're willing to come in that day, they will—

Mr Marchese: We could include a lot of those people on that list.

Clerk of the Committee: Yes.

The Chair: Any other points on the subcommittee report? Seeing none, would somebody move a motion to adopt it?

Mr Marchese: I move that motion.

The Chair: All in favour of that motion? Okay, motion carried.

There are just a couple of points that I want to make before we get into the beginning of the hearings. We now have a list of the people who will be presenting today. We do have a heavy schedule, obviously, with five days, and certainly, out of respect for all the people who are coming to present and to all of us as members, I would hope that everyone is able to give this as much attention as far as attendance as they can.

Our meetings will start on time. When we have people scheduled in 20-minute intervals, it is important that we do start on time. Each presenter will have a 20-minute time frame. What part of that they choose to allot for questions will be up to them. If they present for 10 minutes and leave 10 minutes for questions, the question time will be divided equally among members of the three parties. We'll recognize the order of questions basically by your putting your hand up, and we'll keep a list as best we can.

Most of us are new to this process, including myself. Let's enjoy it, play out the role that we have been asked to play by our respective parties. Some of the presenters will be new at this too; others will be old pros. I would ask you all to give them the respect to which they are entitled. They do have enough interest in the process to come and make a presentation to us. I think we should respect them, and I would also ask that we respect one another as we go through this process.

That having been said, we have about a five-minute interval here, I guess, until we begin. Is the first one at 10 o'clock?

Oh, excuse me. There's one other issue to deal with. You all have a letter from Andrew Cardozo, who represents the Pearson-Shoyama Institute, basically asking for reimbursement for travel costs. This is an area we have not made any decisions about as far as the committee goes. We should have some discussion on it to see—

Mrs Pupatello: What's the history on that?

The Chair: Maybe Tonia could fill us in on the history on travel costs.

Clerk of the Committee: It would be a committee decision.

Mrs Pupatello: Is there precedence?

Clerk of the Committee: Yes.

Mr Clement: Could I ask the clerk a question? If we do accede to their request, do we have an obligation to offer the same thing to other deputants?

Clerk of the Committee: That would be a committee decision, but you'd have to be able to defend it, whatever decision you choose.

Mr Sergio: Mr Chairman, what is the proper way to get your attention to get on the speaking order?

The Chair: Put your hand up.

Mr Sergio: Or just barge in at any time?

The Chair: No, no. I have some kind of order, of course.

Mr Clement: I apologize if I've been rude.

Mr Sergio: Just one quick question, since we have a couple of minutes. We have received—

The Chair: Is it on this issue, Mr Sergio?

Mr Sergio: No.

The Chair: We should deal with this issue first, okay? Then we'll—Mr Marchese.

Mr Marchese: Sorry, I was out of the room while this matter was being discussed. Mr Cardozo is asking for—

The Chair: Reimbursement for travel expenses.

Mr Marchese: That's standard for committees, Mr Chair. We have done that in the past. I hope we will continue to do that for members who obviously are far away from here. I would urge this committee to continue with that practice. So I would move that the travel costs for this individual be covered.

The Chair: Okay, we have a motion that the travel costs for Mr Cardozo from the Pearson-Shoyama Institute—

Mr Grandmaître: On the motion, Mr Chair-

The Chair: Okay, any comment on the motion?

Mr Grandmaître: Yes. I agree partly with what my colleague is saying, that we've followed this procedure in the past. But at the same time I think we need to put in place demarcation. I don't think we should be paying travelling expenses for people in Toronto. We have to put a limit on the travelling expenses. I would say that anybody outside of Metro would be paid, but I don't think we should be paying for everybody who wants to appear before the committee.

Mr R. Gary Stewart (Peterborough): Much along the same idea, I don't know how we can approve travel costs when we have absolutely no idea what the costs are going to be. I think this has maybe been something that's happened in the past, that we say yes to things without having any type of background on it. If we're going to bring 93 people in at a couple hundred dollars or \$300 per person, which in this particular case, with air one way and train another way, you're looking at probably close to \$300, and we've got 93 of them as well as possible delegates with them, I don't think that I'm in any position to vote yes on the motion without knowing what kinds of costs we're talking about.

I have difficulty with using, again, the taxpayers' money on something like this where it's an area where

some people are for this legislation and others are against it. So I don't believe that all the taxpayers should be paying for this.

Ms Marilyn Churley (Riverdale): I feel very strongly—we do need to reimburse people—that we deal with it on a case-by-case basis, so in making this decision today to pay for the travel expenses of this particular person, we're not making a decision on any others. We will be dealing with it on a case-by-case basis.

A lot of these non-profit groups, within a democracy, need to have the opportunity to come and speak on issues that they feel strongly about one way or the other. If we are not in a position where we can be able to look at, on a case-by-case basis, the travel reimbursements for some of these people, then we're eliminating the opportunity for some of the non-profit groups. Especially in this economic climate even more so, when there's less money out there for these groups, then we limit their right to the democracy that we all support here.

So I would like to suggest that we grant the travel expenses for this person and that we continue to deal with this on a case-by-case basis. My understanding is that so far this is the only person representing a group who has asked for these reimbursements. It's also my understanding, and correct me if I'm wrong from the record, that generally speaking we don't get huge requests for these kinds of reimbursements.

The Chair: This is the only one we've had this time. Maybe Tonia could comment. Do we generally get many requests?

Clerk of the Committee: Not many, not generally.

Mr Marchese: A few more quick things, just to add some reasonable context to all of this. We have done that in the past all of the time. When we have hearings here in Metro, it recognizes the fact that those outside of Metro are in a difficult position. It also recognizes that if we were to travel outside of Metro as a committee it would be very expensive for this committee to do so. Pat of saving money for the public is to have the hearings here. Part of not going out to the various cities is to save money for the public by not going out.

However, to make it impossible for people to come would be a problem. So in those cases where individuals want to come and are asking to be supported, we think it's reasonable so that they have a voice with respect to a particular bill, whether it's for or against.

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Mr Joseph N. Tascona (Simcoe Centre): I'm not in support of travel costs. This is voluntary, if they want to come and make a submission; they can send it written or whatever. We're talking about a 20-minute presentation here and we're talking about costs from Ottawa, in this particular case, of travel by air, by train. It's certainly not fiscally responsible to be encouraging the payment of cost to participate in this process when they can do it by written submission and do not necessarily have to do it by travel cost. I don't see the benefit of, or any limit—

Interjection.

Mr Tascona: I've got the floor here. I don't see the limit here with respect to a case-by-case and we say, "Oh, this is fine." We're talking about a 20-minute

presentation that can be done in writing and we're talking about fiscal restraints in terms of operating efficiently. I think we should be looking at the government's requirements, not necessarily these organizations'. We're opening up the hearings and we're here to hear them, but it doesn't necessarily have to be in person and it can be done another way, because we're here to hear the submissions.

The Chair: I'd rather we not discuss this all morning. We do have some people waiting to make presentations, so we'll take two more comments and then we'll get on with the vote.

Mrs Pupatello: I think Mr Marchese's point is well taken in terms of us not moving and so the people need to come to us. Maybe we can find some compromise and offer a lower level of payment, so not an air fare but perhaps be prepared to cover train costs, and the individuals or groups would have to pay the balance. So we can set what the threshold is of payment and we'll set the standard, that we're prepared to pay train, not air, for example. At least if it's more inconvenient for them to take the train, that's what they have to give up, I guess, and we're being more responsible in terms of our costs.

The Chair: Are you recommending an amendment to the motion—

Mr Marchese: Can I make a suggestion? The Chair: —to put some type of a—

Mr Marchese: Could we-

The Chair: Excuse me. Ms Pupatello, are you recommending an amendment to the motion?

Mrs Pupatello: Yes, because the motion was early on. So if you can repeat the motion for me, I'd be prepared to offer an amendment.

Mr Marchese: That's why I was going to offer a suggestion to the mover of it, Mr Chair. Could we leave it to the Chair to find a reasonable solution to this so that those individuals would not be excluded from coming? So we'll leave it to you and the clerk to find a reasonable solution to this?

Interjections.

Mr Marchese: Based on what we were saying.

The Chair: We've got a bit of a problem here. We've got a motion on the floor to deal—are you withdrawing your motion?

Mr Marchese: No.

The Chair: Okay. So we have a motion on the floor that we are dealing with. The last comment we're going to have is from Mr Sergio.

Mr Sergio: I was going to ask if staff perhaps can advise the committee on policies. If we have a policy in place that has been used before, it's good to get the advice of experienced members. Do we have a policy in place that has been followed by previous committees, Mr Chairman?

The Chair: As Tonia said, it has always been done on a case-by-case basis. So we have a specific one here now before us. I think that's all the discussion we need to have. Everybody has already had a chance to speak on it—

Mr Sergio: Then, Mr Chairman, I move that we go according to the existing policy.

The Chair: Okay. We have a motion on the floor that Mr Cardozo be reimbursed for his expenses to come and appear before the committee. I call the vote.

All in favour? Opposed? The motion is defeated.

Ms Churley: Mr Chair, I'm sorry that we voted on that motion before I got to speak to it again. I wanted to make a suggestion and I'm hoping that people, even though they voted it down, will take me up on this suggestion.

I think we just did a very serious thing here without proper discussion, about the implications of a committee of the government of Ontario sitting in a downtown office in Toronto, having made the decision to not go out—

Mr Clement: On a point of order, Mr Chair: Are we speaking to a motion that has already been defeated?

Ms Churley: But please, I have a suggestion. I'm trying to say for all of us here that we just made a very, very serious decision that breaks with precedent forever in this province that I'm very worried about. I'm hoping, I'm asking, I'm pleading with people to reconsider this for this one case, and then have it come back so that we can discuss it with more of an understanding.

The Chair: We did vote on the motion.

Ms Churley: Well, I hope people understand the implications of what they just did—

The Chair: We will go on to-

Ms Churley: —for the democracy in this province. They've gotten off to a bad start.

The Chair: Excuse me. Excuse me. We have voted—

Mr Clement: No, no. You said it's case by case. We decided on this case.

The Chair: Mr Clement-

Mr Marchese: You've ruined it forever with this motion.

The Chair: We have voted on the motion. The discussion is ended. Now, the next order of business.

Mr Sergio: Mr Chairman, forgive me. I was going to request at the end of my brief presentation a recorded vote. I'd like to give notice now and, further, if it's still in place, I'd like to move that.

The Chair: It's too late.

Mr Sergio: Otherwise, I'd like to give notice that I'd like to see a recorded vote on every vote that is taken in this committee.

The Chair: You have to ask for a recorded vote before the vote is called, so it is too late to do that.

Mrs Pupatello: Mr Chair.

The Chair: Is it on the same issue or a new issue?

Mrs Pupatello: It's a question of procedure. I was offering an amendment to the motion which would have been offered before the vote, and we would have voted on the amendment to the motion being offered. But I didn't have that on record so I was sort of leapt over. So I'd like to offer another motion, and that is the motion

that we offer train fare as opposed to air fare for this individual travelling from this organization.

The Chair: We have dealt with this issue of compensation for this person. The issue is over, so we'll go on to the next order of business.

Mr Marchese: But, Mr Chair-

The Chair: Is it on the same issue?

Mr Marchese: It is, yes.

The Chair: That issue is over.

Mr Marchese: But it's a different motion.

The Chair: That issue is over.

Mr Marchese: No, Mr Chair, you have to listen to my—

The Chair: Mr Marchese, that issue is over. You're out of order.

Mr Marchese: I'm suggesting there's another motion here, and the motion is the following: that we cover travel costs for coming to Toronto by train and plane. That's what this request is all about. That's the motion, right, that we cover the travel costs for plane and—

The Chair: Is this a new motion you're proposing?

Mr Marchese: Her new motion is that we cover travel cost for train.

The Chair: Are you proposing a new motion?

Mr Marchese: That's her new motion.

The Chair: Are you proposing a new motion?

Mr Marchese: I would propose the motion that she's proposing, and that is that we—

The Chair: Are you proposing a new motion?

Mr Marchese: Yes, that we provide travel for train only.

The Chair: For any member? Would you articulate the motion clearly?

Mr Marchese: No, for this individual person who has requested this, that we provide train fare for this individual.

The Chair: Okay. Train fare both ways, from Ottawa to Toronto and back?

Mr Marchese: That's right.

The Chair: Okay. We have a new motion on the floor.

Mr Sergio: I'd like to have a recorded vote on this, Mr Chairman.

Mr Bart Maves (Niagara Falls): I think it would be wise for all of us to—I think we did the right thing in voting down the previous motion and I think it may be wise for us to refer the whole situation and the question of funding travel expenses to the subcommittee. Perhaps the subcommittee could come back with some kind of a standard recommendation that we could vote on in the future rather than debating each and every one, whether they should get train or whether they should get plane or whether they should get kilometres. Maybe the subcommittee can retire and come back to the committee with some sort of recommendation which we could apply.

Mr Clement: I would like to see further research on this issue as well. I understand the intent of the mover,

but there are times when in fact the plane is cheaper than the train and there are times when in fact allowing someone to rent a car is cheaper than the train. I feel quite constrained by that motion and so consequently I'm either going to vote against it or I would like to see it referred back to the Chair.

Mr Marchese: A few things, Mr Chair: We have always done this as a practice, and there has been, I would say, unanimity with all of the members, including their former friends who were here. It recognizes that if we can't travel outside of Metro, to save money we would from time to time, when people requested it because they couldn't afford it, pay for them to get here so they'd have a voice to speak on a particular bill. What you are doing—all of you—is shutting those people off, for a not unreasonable cost, I would add.

By past practice, there have only been a few individuals who requested it. We have never had thousands of people saying, "We want you to subsidize our cost to get there." But it recognizes that we're saving money by staying here, because it's easier for us and it's easier for the proceedings to do that. So I would recommend that people reconsider their position; otherwise what they're telling the public is, "When we sit in Toronto, the rest of Ontario can stay home if they can't afford it." It's a serious matter that you're speaking to and that you're voting on. I hope that they will consider that, Mr Chair.

The Chair: Can I just make a suggestion here. Rather than to debate this all morning long when you have people waiting for us, is it possible, Mr Marchese, that the suggestion that this go back to the subcommittee for a general outline of the policy would be the best way to handle this?

Mr Sergio: Mr Chair.

The Chair: Excuse me for a second. Would that be the—

Mr Sergio: On a point of order, Mr Chairman: Normally the Chair does not make any comments. Then you have a speaking order. Mr Chairman, you have already gone to the third person and I have requested to speak about three members before my time. I'd like you to keep an order of the speakers and use that order, Mr Chairman, with all due respect.

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Mr Marchese: If I can, Mr Sergio, I don't mind bringing this motion back, because that's what this would do. I will bring this motion back once the subcommittee has dealt with it. If the subcommittee doesn't deal with it in the way that we feel is appropriate, I will bring back this motion for discussion at the next meeting.

The Chair: So are you prepared to withdraw?

Mr Marchese: I will withdraw that so that we can get on with the proceedings.

The Chair: Okay. So the subcommittee will deal with the issue. Is this on a different issue?

Mr Sergio: It's on the same issue, this one here.

The Chair: This issue is—

Mr Sergio: No. With all due respect, Mr Chairman, you know, we have had an amendment on the floor which has been debated and not voted upon. We have

had a suggestion to send it to the subcommittee, which I totally disagree with. Mr Chairman, let's stop playing games. This committee has the duty, the responsibility, the power to decide yes or no. Let's not fidget with the idea if we should be paying or not be paying, Mr Chairman. You have the responsibility to say to the members of this committee: "Look, let's decide here and today. Let's not postpone it and leave it to the subcommittee so when the matter comes back here it's going to be voted down again."

Mr Chairman, with all due respect, let's tell the people the way it is. Either we do or we don't. Let's not fool around. Let's not waste people's time. Let's not waste our own time as well. So my motion is, Mr Chairman, to decide it here today. Either we go on a one-to-one basis on their own merits, if you will, and we can say up to a limit or by rail transportation alone, but let's not send it to the subcommittee so they can make their own recommendation, so they can bring it here and—

Mr Morley Kells (Etobicoke-Lakeshore): What is the specific motion, then?

The Chair: Have you got a specific motion?

Mr Sergio: Yes. My motion is, Mr Chairman, to reaffirm the previous decision and deal on a one-to-one basis, allowing for—

The Chair: No, I need a specific motion on the issue. Have you got a specific motion?

Mr Sergio: I said either the lowest or rail transportation.

The Chair: Okay. Your motion, is that for all requests, or this specific request?

Mr Sergio: That this one here be approved—

The Chair: This specific request, by Mr Cardozo, that we pay for his transportation expenses at the lowest possible cost.

Mr Sergio: The lowest possible. That's fine. The Chair: Is that okay? Is that the motion? Mr Sergio: And then, every other request—The Chair: Everybody hear that motion?

Mr Sergio: —will be dealt with on an individual basis.

Mr Ernie Hardeman (Oxford): On a point of order, Mr Chairman: I'm getting a little confused as to how many motions we presently have on the floor.

The Chair: Just one. The other one was withdrawn.

Mr Hardeman: We had a motion from someone, at least as I heard it, that in fact they wanted to go back to the rail fare.

Ms Churley: That was withdrawn.

The Chair: No, the only motion on the floor now is Mr Sergio's motion that we reimburse Mr Cardozo for his travelling expenses at the lowest possible rate. Is there any further discussion?

Mr Marchese: Mr Chair, I had withdrawn it for a purpose. One, to deal with it in subcommittee so that we could try to come up with some process to deal with this; to also deal with the fact that some of our members will come in front of this committee and will need sign

interpreters as well, and we haven't dealt with that. We've always made accommodation for things like that. So the subcommittee should deal not only with sign interpreters, which is something we need to address, but also deal with that particular one, so I will—

The Chair: Okay, can we deal with this motion now and then we'll deal with—

Mr Marchese: I will vote against that motion in order to send it off to subcommittee.

Mr Sergio: A recorded vote, Mr Chairman.

Mr Jim Flaherty (Durham Centre): Speaking to the motion, Mr Chairman, the motion that we defeated on this side was to travel by train one way and air the other way. There's no explanation in the correspondence about why one way would be more appropriate than the other and why the individual feels that is suitable, and that's why I voted against it.

I certainly agree with those opposite who say that in effect it ought not to matter where one lives in Ontario, about their ability to attend and make representations before a committee of the Ontario Legislature at Queen's Park.

We have to be concerned about cost, because we're all familiar with the financial situation of the province. So I agree with the suggestion by the member for Niagara Falls that we need to look overall at minimizing the costs of witnesses coming before this committee, and I hope the subcommittee will do that.

Now, with respect to this specific individual, if he's going to give evidence here, I suppose train is a reasonable way of minimizing the expense.

Mrs Pupatello: Maybe we can, for this case, understand that the Chair will direct the individual to take the least cost to get here, for this case. It can of course be recommended to the subcommittee to discuss further, but policy needs to be struck. That goes without saying. So let's just take care of this case, because in a week and a half we'll be done, so we don't really have the time to get into all of the specifics of a policy. We'll take care of this individual, which is the only request at this point in front of the committee, at the Chair's discretion, and we'll get on to a policy discussion at a subcommittee level. Is that fair?

The Chair: We have a motion on the floor to reimburse Mr Cardozo for his travel costs at the lowest possible rate. All in favour?

Mr Marchese: A recorded vote.

The Chair: A recorded vote is requested.

All those in favour?

Ayes

Churley, Flaherty, Grandmaître, Marchese, Pupatello, Sergio.

The Chair: All those opposed?

Nays

Clement, Danford, Hardeman, Kells, Maves, Stewart, Tascona.

The Chair: The motion is defeated.

Ms Churley: Just a point of information: I want to clarify that the subcommittee will now be dealing with

the policy matter, both in terms of interpreters and travel reimbursements.

The Chair: Yes.

Mr Sergio: I'm sorry; this document here, it is marked as being confidential. I'd like to ask if this document was made available to the general public. It is marked confidential and I would like to know why it was marked confidential.

The Chair: Mr Clement could maybe answer that question.

Mr Clement: I can't think of anything that makes it particularly confidential, to tell you the truth. I think you as an MPP are within your rights if you want to share that with somebody. I don't think anybody's going to object; I certainly don't object.

Mr Sergio: I realize that, that we can make it available to some of our constituents. However, when we see something confidential, we feel that it is to be kept as such, confidential, and I was wondering—that is the reason for my question, Mr Chair—if indeed we did have some requests from the public or groups for the documents and they were refused. I guess that was the reason for my question.

Mr Clement: Not to my knowledge, Mr Sergio, no.

Mr Hardeman: Just a question on the procedure on the previous item, in fact. For the matter to be referred to the committee, does it require a motion?

Secondly, I would just like to inquire as to whether the request that was before us would be reconsidered after the policies were brought back, so it would still comply for funding upon a decision by the committee.

The Chair: We agreed to send it back to the subcommittee to discuss, so whatever they propose will come back to the committee.

Mr Hardeman: I would just question, though, whether in fact Mr Cardozo would in fact be eligible for funding if this committee decided in the future to change the position. Obviously the committee was pretty adamant that it was not going to fund this request. I would like it to be noted that it would still be considered under any future policy.

The Chair: Let's say that's possible. 1020

JOB QUOTAS REPEAL ACT, 1995

LOI DE 1995 ABROGEANT LE CONTINGENTEMENT EN MATIÈRE D'EMPLOI

Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

CANADIAN CIVIL LIBERTIES ASSOCIATION

The Chair: We can now get on to our first presenters, Mr Alan Borovoy, the general counsel, and Mr Stephen McCammon, a field representative, from the Canadian Civil Liberties Association.

Gentlemen, you have 20 minutes. How you choose to use that 20 minutes is up to you. Any time you want to allot for questions has to be taken out of that 20 minutes. Welcome to our committee.

Mr Alan Borovoy: Thank you very much. I promised the press to talk slowly, but you have put the pressure on me to talk quickly. Somewhere in between those two extremes I'll try to find a happy balance.

I should say, just by way of an opening remark, that the comments we make about employment equity will focus essentially on issues of race and gender. In our view, there are questions concerning those with disabilities that might be entitled to special considerations that wouldn't otherwise be covered by what I will be saying. I hope to show in the next 10 minutes that we are faced with two unfortunate extremes.

On the one hand there is the legislation that has already been enacted. It appeared as Bill 79 and I will otherwise refer to it that way. That was enacted under the aegis of the previous government. It, in our view, went overboard in one direction, and what we fear is that Bill 8, under the aegis of the current government, is going to go overboard in the opposite direction, and it is our hope in these few minutes to try to persuade you to avoid both extremes.

We have on numbers of occasions criticized Bill 79, and we've criticized it often quite vigorously. At the same time, however, that doesn't mean that the concept of employment equity is flawed because there are flaws in Bill 79. In short, what we're saying is, the proper route to go is to amend, not repeal, Bill 79. I suppose another way of saying this is, don't throw out the baby with the bathwater.

One of the reasons that employment equity became important is because of the experience with the Ontario Human Rights Code. We have had more than three decades of this legislation in this province, and one only has to examine some of the key statistics to see that it has been inadequate, necessary but not sufficient. I just give you a few examples.

Our organization conducted a survey in Cornwall this past summer. We looked at 750 retail jobs, jobs in retail establishments that employed no fewer than 100 people. Out of those 750 jobs we found only three occupied by aboriginal people—this in a community with a total population of about 50,000, where you have about 6,000 aboriginal people living in or very close to that community. This mirrors a similar survey we had done, maybe three or four years earlier, in Sudbury and Sault Ste Marie when we looked at 1,200 retail jobs and found only three occupied by native people. The unemployment rate for aboriginal people is twice the national average.

We find also, as of the last census, that with the black community, despite the fact that in numbers of respects the educational background of blacks is not that much different from that of the total community, and in fact in some respects even superior, the unemployment rate for blacks is about 50% more than it is for the total community.

With women, we find that though a United Nations report recently said that Canada was the best country in the world to live in, it nevertheless ranked female wages in non-agricultural jobs 47th in line as far as equality was concerned.

These tell us that the Human Rights Code, though necessary, isn't doing the job. Even when it functions well it's not doing the job and it's not functioning all that well these days. This is primarily because the Human Rights Code is reactive rather than proactive, and it's also because it's very difficult to prove discrimination in any individual case. Even if there is discrimination, it's awfully hard to prove it. When you put all of that together, it's very difficult for the Human Rights Code to accelerate the rate of progress for those who have been disadvantaged for so long.

So it was sensible, in our view, finally to say to employers, "If you can't manage to hire a reasonable number from those constituencies, you explain it." After all, the employers know: They know what outreach methods they have attempted and what they've rejected. They know what candidates they selected and which they rejected and why. So it made some sense to say, "If you can't manage to hire a reasonable number, you explain it."

In short, in our view the essence of employment equity is at some stage to change the onus and require, as a condition of doing business in this province and enjoying the benefits of the public market, that employers explain their practices. That's essentially what the essence of employment equity means.

This means, of course, that the numerical goals have to be reasonable. In our view, Bill 79 went overboard in this respect because it says that employers have to make reasonable progress to get the racial and gender mix in their workforce to reflect what it is in the total community. That, in our view, is an invitation to engage in preferential hiring practices. It doesn't necessarily mean they will, but it means employers can be pressured to do that in order to bring their numbers up as quickly as possible so that their total workforce will resemble the breakdown in the total community. There's no need for that, in our view.

In fact, the best example of where this kind of thinking went wrong was in something that predated Bill 79 at the Ontario College of Art. They had pitifully few female instructors, yet they believed they were graduating so many competent people from their courses that at least half of the available talent pool was female. Well, they wanted to get their numbers up to 50% as quickly as possible, so they formulated an employment equity plan that said women would have the priority on all jobs vacated by retirement in the 1990s.

That, in our view, necessarily discriminates against men. No matter what sophistry you use, you cannot deny that if you say women have a priority on 100%, you are discriminating against those who are not women, and there was never any reason to go that far. In fact, what difference does it make how long it takes for the total workforce to have 50%? What matters is that when they hire, they don't discriminate. If they really believe that men and women are equally divided in the available talent pool, then the numerical goal should be 50%, not 100%.

In short, what we are saying is the act should be changed to provide that employers are required to set numerical goals in this way, to ask themselves the question: If you recruit vigorously among those people who are so underutilized, if you set fair job standards, and if you don't discriminate in your ultimate selections, how many are you likely to hire? This would be a much smaller number than it would be at the Ontario College of Art, but in our view a much fairer one. At that point there's no reason why you can't say to employers, "You justify the failure to meet those targets."

The other recommendation we would make is that, notwithstanding the existence of any employment equity plans, employers should continue to be obliged not to discriminate against individuals on the basis of race or gender. This means that white males, as well as blacks, as well as aboriginals, as well as women, would be able to invoke the remedial facilities of the Human Rights Code in the event that any one individual were bypassed to meet a target or for discriminatory reasons.

In our view, if the legislation were changed in this way, we would be able to strike a fairer balance than either the existing law or the simple repeal of this legislation would do to accelerate the rate of progress for the disadvantaged people on the one hand, and on the other hand being fair to other people in the community, all of which is as always, Mr Chair, respectfully submitted.

The Chair: Thank you. Questions? Mr Grandmaître.

Mr Grandmaître: Thank you for your presentation. So really your message this morning is that you're inviting employers to continue or establish an employment equity plan. You didn't tell us in your presentation how this would be followed up. If employers do agree to put in place an employment equity plan, will the government still be the responsible policing tool?

Mr Borovoy: Yes. In many other respects the employment equity legislation could function similarly to the way it has been contemplated in the existing act. Many of those enforcement and compliance mechanisms could remain in place. The difference would be that you would have fairer and more reasonable standards than you now do.

Mr Grandmaître: And with fines, if they don't comply to their own employment equity plan?

Mr Borovoy: The answer to that would be yes, remembering that the employers would be off the hook if they were able to establish that they made reasonable efforts to fulfil those goals.

Mr Marchese: The title of this act is the Job Quotas Repeal Act. Do you agree with that title?

Mr Borovoy: I don't really like to occupy my powerful mind with considerations of labels. Suffice it to say that the bill before you is wrong to the extent that it would abolish the very concept of employment equity.

Mr Marchese: I understand that.

Mr Borovoy: And the bill it hopes to repeal is wrong to the extent that it went overboard in the other direction.

Mr Marchese: I understand that too, yes. I'll move on to another question.

Mr Borovoy: I'm sorry if I took too long with that.
Mr Marchese: There will be many others who will

answer that question. It's all right.

I disagree with the point that you make around numerical goals, where you say that it's an invitation to engage in preferential treatment. We're talking about reasonable goals; we're not talking about quotas, where it says, "Half of your staff will be women by the end of the year 2000." That's a job quota, and to do that, then employers will do whatever they need to do, and in some cases it could be that such an example could lead to preferential practices.

But to talk about our bill, where we talk about reasonable goals, which is so vague that it could allow employers to do whatever they want and abuse it still, I just don't see that that would lead to preferential treatment, because it assumes that there aren't enough people in all the target groups—of people with disabilities, aboriginal, people of colour and women—who would not be able enough, through merit of course, to fill those jobs.

Mr Borovoy: No, I think that's not correct. In fact, if you look at what the Ontario College of Art did, it's a classic case in point, and I know it began before Bill 79 was enacted. But under Bill 79 they could do what they did, and indeed they would be invited to do it, because the objective in the act is to get the distribution in their total workforce to reflect what it is in the outside community as soon as possible.

They said, "Even if we gave women priority on 100% of the jobs, we won't even have 50% by the end of our plan but we will have made a lot of headway to getting 50%," and I'm suggesting to you that very objective is wrong because it invites them to rush as quickly as possible to get it all up to 50%, and that way they're encouraged to discriminate the other way. Why doesn't that follow?

Mr Marchese: Mr Borovoy, I don't see that.

The Chair: Mr Marchese. Mr Marchese: Time is up?

The Chair: Yes.

Mr Borovoy: I'm sorry we couldn't continue that.

Mr Stewart: Because this bill is merit-based and ability-based, I'm interested in the survey that you did in Cornwall, where you talked of 100 retail operators who only had three aboriginal people working for them, and indeed it's a large community of aboriginals down there. What were the comments from the those 100 retailers? I assume, to make a fair survey, you would have to ask them why they were not hiring aboriginals as well. Could you tell me what their comments were?

Mr Borovoy: That isn't quite the way the survey worked, but I can say this to you. A number of them said, "Oh, we haven't had many applications from aboriginal people." We had another one saying: "Well, they don't like to do this kind of work. They don't like to put on a shirt and tie. They're strong people; they like to work outside." We had numbers of answers of that kind.

I think what's important, though, and this is why in our view the concept of employment equity is important—one question we did ask: "What efforts did you make to recruit among the aboriginal people?" What you have to remember is that there is a gulf between the white and aboriginal communities in so many places. Aboriginal people looking at a number of establishments and seeing nothing but a sea of white faces for generations might well believe, even if wrongly, that they will be discriminated against.

So what we believe is important to do is to require employers to engage in outreach efforts to actually recruit. That doesn't require them to select in a discriminatory fashion when they ultimately select, but it requires them to encourage applications from those they haven't had working there.

Mr Stewart: Does that not—

The Chair: The time has expired for the 20-minute presentation. Thank you very much gentlemen. We appreciate your interest.

Mr Borovoy: Thank you.

Mr Grandmaître: Can I help you in any way with the timekeeping? Would you advise us, Mr Chair, how much time each caucus has in replying or asking questions or whatever? Could you advise us of the number of minutes? Do we have two minutes, three minutes, or whatever?

The Chair: Yes, I will do that. I didn't do that at the beginning of that one. I turned to my right and my leader wasn't here. I will do that.

Mr Sergio: I think, Mr Chair, if I may steal a moment of your time, it's important to tell the deputants as well to be short with their answers so we can get in more questions.

The Chair: Good point.

Mr Sergio: It wouldn't offend the deputants. 1040

TRANSPORTATION ACTION NOW

The Chair: Okay, those folks had a written presentation too. These folks here have a written presentation. I'm a little confused about exactly who we have now. Sam Savona from Transportation Action Now; David Baker, legal counsel of Ontarians with Disabilities—

Mr David Baker: That's right; yes.

The Chair: —and Gary Malkowski, executive committee of Ontarians with Disabilities Act Committee.

Mr Sam Savona: We are all in one group.

The Chair: Okay, you're all in one presentation today. Basically, you have 20 minutes. You can use any part of that you want to allow for questions. When we do get to the question time, I would ask you to keep your answers brief so that the members of the committee can get a chance to ask more questions. The clock is running. Welcome to our committee.

Mr Savona: Thank you, Mr Chairman. You took away my job, which was to introduce our panel.

My name is Sam Savona. I wear three hats today: I am a board member of Transportation Action Now, I am

co-chair of the Ontarians with Disabilities Act Committee and I am, in my private life, an entrepreneur who consults on accessibility for people with disabilities.

Gary Malkowski, on my left, is an executive member of the ODA committee. He is also serving as director at the Canadian Hearing Society. David Baker, on my right, is our legal counsel for Transportation Action Now, as well as for the ODA committee.

We are here to talk about the Ontarians with disabilities act. One comment I would like to make personally as a consultant on accessibility: One of my American clients has pointed out to me that in order for them to come to Ontario and have their conference in our province, they have to ensure that their ADA law, the Americans with Disabilities Act, is adhered to as well. So in a way, I am losing business by not having a similar act in Canada and Ontario, and as you know, I am not the only business in Ontario.

Anyway, I will go to David.

Mr David Baker: Alan Borovoy said to you that he was concerned about throwing the baby out with the bath water. We're here today to tell you that the baby hasn't had a bath yet, that disabled people in this province have not had an opportunity. The ODA committee adopts the position that they are opposed to the repeal of the Employment Equity Act because it represented a significant advance for disabled people, a significant opportunity for disabled people to have barriers removed and to get into the workforce. The government is talking about equal opportunity, but it's talking about voluntary, nonlegislated approaches to equal opportunity. Mr Malkowski will address this issue.

The government has promised an Ontarians with disabilities act, but there is no policy work being done on an Ontarians with disabilities act and the government is not meeting with the Ontarians with Disabilities Act Committee or other representatives of the disabled community to address this kind of issue.

There are problems with the Human Rights Commission, and Mr Borovoy has alluded to some of them. You will be hearing through the course of your process from the Human Rights Reform Group, and we feel those kinds of changes are necessary. But our basic message is this: In Helmut Kohl's Germany, in Margaret Thatcher's Britain, in Ronald Reagan's and George Bush's United States of America, there are stronger pieces of legislation ensuring access to employment for disabled people than there would have been had the Employment Equity Act not been repealed.

The unemployment rate for disabled people in this country is higher than it is in other industrialized countries. The cost to the public of not having disabled people in the workforce is very high, so we urge you to rethink the decision to repeal employment equity and urge also that you proceed with human rights reform and the introduction of an Ontarians with disabilities act.

I'll turn it over to Mr Malkowski at this point.

Mr Gary Malkowski: First of all, I'm strongly opposed to the proposition by the government to repeal employment equity. I would suggest that your intention should be actually to remove barriers. What you would

be doing by repealing this is actually creating worse barriers for those who are disabled or deaf. I think you fail to convince us that you are really seriously committed to removing barriers.

For example, there is new technology out there, if you look at blind people who can access computers. Now it's true, there are talking computers, but what about the new ones that are all graphics? There's one called Windows; that's of no use to blind folks. It's the same with other kinds of computers that have voice instructions. Those are of no use to deaf people.

So technology is not always the best answer for us. There are other kinds of barrier-free design that need to be looked at, for example, how one gets a job. How do you advertise for a job? How does one apply for a job? If it's advertised in the newspaper, how on earth can a blind person read that? It's that kind of thing. How are we supposed to have access to the job market? If there's no TTY number listed, how can a deaf person call to get further information as to where to go to apply?

Bill 79 specifically has instructions within it to identify barrier removal to make sure that people at least get the interview. It's to remove the systemic barriers that are in society now. I want to remind all of the government members, if you would remember, our hope as disabled people and as deaf people—you're taking away that hope. We are hoping for a better society where we will have full participation, especially parents who have young children. You are taking away that hope by removing Bill 79.

I would ask you to reconsider that. I'm asking you to think about barrier removal in society for both disabled and non-disabled people. I can give you an example of that. Think about ramps when you look at a building. It's not only people in wheelchairs who use those ramps. Let's say there are parents who have strollers; they may use the ramps to go up there, or people who are moving furniture. I'm sure you've seen heavy furniture being moved and used on those ramps. It benefits not just disabled folks. When you talk about access, it helps everyone.

1050

Captioning: It doesn't just help those who can't hear. It also helps people who are learning English as a second language because they can read along. Or children who are at home; if the television is on and there's captioning, they can also read along. It's helpful, it's instructive. It's industry that will produce these products, and that means more jobs.

I'm asking you to have a more holistic approach to barrier-free design and to be a little more creative and not repeal Bill 79. We need policies and we need implementation by the government that is proactive, something that will reduce costs to society and remove barriers, not create further problems.

I want to remind you to seriously think about the population, the citizens of Ontario. One of the growing populations is older folks who will become disabled. More and more children who are being helped with advances of technology in medicine are living longer, and

some of those children have disabilities. What about them? What about their place? Where's their place in society?

We need a holistic approach that is going to encompass all the citizens of this province, not just some. So I'm asking you to think about not repealing Bill 79 and to think about enacting an Ontarians with disabilities act, one that would encompass all the citizens of this province.

The Chair: Thank you, gentlemen. Each party now has about three minutes, so we'll start with Mr Marchese and the third party.

Mr Marchese: Part of what Bill 79 was intended to do was to be proactive and not reactive; that's the point. The Human Rights Commission is there to react to someone who has a complaint against them, for a number of reasons. The point of Bill 79 was to recognize that we have systemic problems that we have to deal with.

This government says, "Well, we want to restore merit, because Bill 79 kills merit." We said: "No, that's not the case; merit is part of Bill 79. We want to hire people based on merit; not because they're black or because they're disabled or because they're women, but because they have merit and qualifications."

What is your sense of this plan that the Conservative government has that says, "What we want to do is bring about equal opportunity for everybody, bring fairness to everybody"? What do you think about that plan?

Mr Baker: I mentioned that Conservative governments in Germany and in Britain and Republican governments in the United States saw the importance of legislating access for disabled people. The reason is that if merit means market, an individual person in the marketplace is not going to build a ramp, because it's not economic to have that one customer in a wheelchair go next door to someone else or go somewhere else or not even be in the marketplace.

But overall, the cost to society of not granting access is that everybody loses. Disabled people become dependent, rather than being in jobs and independent. That is what is being lost with the repeal of this bill, and that is what is going to be lost if this government talks about voluntary, market-driven action to grant access to disabled people. It won't work, and disabled people do not believe it will work. This has to be addressed.

Mr Marchese: More time, Mr Chair? The Chair: You have another minute.

Mr Marchese: Can one of you or all of you, if you have time, talk about the title of this document which says, "Job Quotas Repeal Act." What do you think about that?

Mr Savona: By the sound of it, it scares me, because I want to get back to where we were talking before. We need a bill on equity, because a person with a disability such as myself—I use myself as a perfect example. I apply for jobs. I go for the interviews. The moment I open my mouth, I know that I will be looked upon as having a drinking disorder rather than cerebral palsy. The moment I phone someone, and they ask who you are, they will hang up because they would think I'm drunk.

The Chair: Sam, I'm going to have to cut you off there, okay?

Mr Marchese: I appreciate the answer, because he's speaking to systemic barriers really.

The Chair: Yes, I understand that, so I did give him some extra time.

Mr Tascona: I take it by the solution that you've put in your document with respect to an Ontarians with disabilities act, Bill 79, even in its present form, doesn't adequately address all the barriers to employment and to disabled people in this province?

Mr Baker: The proposal for an Ontarians with disabilities act involves providing clearer guidance or standards, which is following on the American model. Sam mentioned that American conventions are not coming to Toronto any more because they don't meet the American access standards. There are standards that are set for hotels in the United States under the Americans with Disabilities Act. It provides clear guidance and it provides a rational period within which change is to take place.

The Employment Equity Act doesn't address the issue of access to hotels, but it's important—it relates to employment. So our position has been that the Ontarians with disabilities act addresses issues beyond employment, such as accessible transportation, such as provision of sign interpreters to people appearing before legislative committees. Those kinds of issues are not addressed in the Employment Equity Act, that's right, and we saw the need for an Ontarians with disabilities act to complement the Employment Equity Act.

Mr Tascona: Do you believe that an amendment or revision of the Human Rights Code would be a useful step, if Bill 79 were to be repealed, to address individuals with disabilities on the employment side?

Mr Baker: The short answer on behalf of the committee is no, but I think Mr Malkowski may have something to add.

Mr Tascona: Do you not believe that the Human Rights Code has a role to play in this process?

Mr Baker: I think if you talk to disabled people you will learn that disabled people have no faith in the human rights process in this province at the present time. If you thought of it in terms of how many cases have actually been addressed since disabled people were added to the Human Rights Code in 1981, I believe you could count on the fingers of one hand the number of employment cases that have been resolved through boards of inquiry. That will give you some idea of the total breakdown in the system. People are not eager to see that system perpetuated; they see a need for major changes.

The principal distinction we're making is that the Human Rights Code deals in a very expensive adversarial process which goes on over a period of—I have cases that are 12 years old. This is not an acceptable way, or a rational way, to address barrier removal.

The Americans have got a non-litigious system of providing standards which are clear to everyone, which take into account the financial realities faced by businesses there and which also assure disabled people that

over a reasonable period of time—the brief, you'll note, talks about barrier-free by the year 2000. The idea is that this has to be phased in over time, that this is the preferred course and that is why the committee is recommending an Ontarians with disabilities act as opposed to going the adversarial, confrontational, after-the-fact route which is set up under the Human Rights Code.

Mr Sergio: Mr Borovoy, the previous speaker, said to amend, not to abolish. Would you have any specific suggestions with respect to amending and not abolishing the bill as it is now?

Mr Baker: Mr Borovoy also used the Ontario College of Art as what he was opposed to. I would suggest to you that the federal government has just passed legislation which is based on the Ontario legislation. It has a clause which says that there shall not be quotas, and effectively does the same thing.

Bill 79 is not quota legislation; it is legislation which says to employers, "Set goals and timetables." The only employers of which we are aware that are practising employment equity for disabled people are federal employers, specifically the banks, which have been subjected to litigation and have introduced hiring goals.

Mr Borovoy said the goal must be set based on—he used the example of women, 50-50. In the case of disabled people, if there were hiring goals set for disabled people based on representation, that would not take into account that disabled people face 50% unemployment rates. The pool of available disabled people eager to get into the workforce is much higher than their representation within the population as a whole.

For example, the Royal Bank has hiring goals of 12.5% in job categories where representation is 6%. Under Mr Borovoy's formula, the Royal Bank would not be permitted to hire disabled people at twice representation. That doesn't work any unfairness because the number of disabled people who are available to work as bank tellers is far higher than in non-disabled categories because of the high rates of unemployment among disabled people. I think Mr Borovoy has overstated his case, frankly.

Mrs Pupatello: I'd like to ask if you have any way of collecting employment data for persons with disabilities and have you noticed any change in that over the last few years?

Mr Baker: Statistics Canada has data generated on disability. The snapshots were taken in 1986 and 1991. Basically, the employment rates for people for whom employment equity is intended, that is, more severely disabled people—we all have some degree of disability. I wear eyeglasses, everybody has some degree of disability, but the Employment Equity Act was intended to address those people with more severe disabilities, particularly those who require the kinds of accommodation such as a ramp or a sign interpreter. For that group of people, the employment picture has not improved over the five years of the census.

The Chair: Thank you very much, Mr Savona, Mr Baker and Mr Malkowski.

Mr Malkowski: Mr Chair, if I may ask your indulgence, where would one send an invoice? I had to bring my own interpreter. Where would I send the invoice to have the cost covered this morning?

The Chair: That decision is going to be made by the subcommittee, so send it to the clerk's office. We'll make a decision on it.

Mr Malkowski: Thank you.

The Chair: Thank you very much, gentlemen. EMPLOYMENT RESEARCH ANALYSTS

The Chair: The next presenter is Ann Mirani, a consultant with Employment Research Analysts. Have a seat. Welcome to our committee. The rules are basically that you have 20 minutes; you can allot any time you want of that to answer questions that fall within the 20 minutes.

Ms Ann Mirani: I'm not sure what the drill is here, so what do you need to know?

The Chair: Some of us aren't sure either.

Ms Mirani: Okay. Is there any procedure in advance here? Go for it?

The Chair: Basically, you have 20 minutes to use as you see fit, so it's all yours.

Ms Mirani: Okay, that's fine. My intent in coming here today is as a supporter of employment equity. I am a consultant in Waterloo, Ontario, and I'm saddened to see that we're going to lose this piece of legislation. It wasn't my intent this morning to spend a lot of time talking about the repeal itself, since I believe that this will happen anyway.

What I would like to address is my serious concern about subsection 1(5) of the draft bill, which proposes that employers will be required to destroy the data that they have collected exclusively under part III of the Employment Equity Act. I realize that the word "exclusively" has some definitions to it which would imply that some people can get around the corners here, but there are a number of employers who in fact conducted their surveys or conducted systems reviews under the parameters of part III of the Employment Equity Act, and I believe that under this condition they will be required to destroy their data.

I don't disagree with people being required to destroy data if they are not intending to continue the process on a voluntary basis. The information was intended to be collected for employment equity purposes, and I think that you should continue to do it for those reasons, but for employers who do intend to continue the process, I think it's unfortunate to require them to destroy this data. It was costly to collect, they've embarked on programs and I think they should be, where they wish, allowed to continue.

I have a couple of suggestions on how one might go about doing that; they're probably not the only ones. I'm not a lawyer, I don't have or pretend to say that this is the exact wording that it should be, but I think that the bill could provide a bridge from the Employment Equity Act, 1993, to an equal opportunity plan or a return to the Human Rights Code special programs section. That's

what I would like to see addressed, is to put the bridge there. Let's not lose the ground that was gained, and let's go forward instead of going backwards.

Mine's short and sweet. If you have questions, please go ahead.

The Chair: We have about six minutes each for questions, so we'll start with Mrs Pupatello.

Mrs Pupatello: You're a for-profit company?

Ms Mirani: Yes.

Mrs Pupatello: I was wondering if you were aware that there has been a growth in your industry as it relates to Bill 79, that because of it there's been a need for your kind of service to business?

Ms Mirani: I'm certain that there is.

Mrs Pupatello: Has your business changed because of Bill 79?

Ms Mirani: My business, as it stands currently, is as a result of Bill 79. I provided research for the owner of my company, Wright, Mogg and Associates, in Waterloo. For the last five or six year, I've been involved in providing them with continuing research on employment equity. But our firm doesn't approach equity as some of the full-service types of consulting firms that you may be thinking of. Where we became interested and decided to go forward was in the research areas, and what we developed in conjunction with two industrial and organizational psychologists was a survey to assist employers in identifying systemic barriers.

I believe that the systemic barrier issue is one of the most difficult to come to terms with. We do understand that statistically there is a difference in demographics from when people enter the workforce to when they leave it, so there is something happening inside our workplaces. Some things are obvious, and we've identified them. The old height and weight requirements, which you all know about, have been identified, and you see where they could impede someone's progress, but there are many other things that we're really not too sure exactly what's happening within it, and that's where we've developed a survey tool.

Mrs Pupatello: In your opinion, how much growth would you say there's been in private industry in terms of your kind of work since the introduction of that bill?

Ms Mirani: I'm not making millions, so I don't know the statistics. I know when pay equity was introduced there were a large number of people who got in pay equity consulting. I have not seen the same type of development in the employment equity field, though there are certainly private practitioners available to people to assist them and give them advice on how to do employment equity. Lots of them are doing it in-house, where it belongs.

Mr Sergio: Ms Mirani, you mentioned that you would like to see a couple of suggestions. Did I miss them or could you repeat them for me?

Ms Mirani: No, I was assuming you had them there. What I had suggested was that there could be a section within the bill that would allow employers to have the right to continue employment equity voluntarily, using

the data that they had collected, provided that they continue to use the data in the form they had told their employees it would be used in.

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Alternatively, there could be a section that allowed an employer a window of opportunity to apply for approval under section 14 of the Human Rights Code that their plan could then become a special program and they could carry on maintaining the use of the data, maintaining the confidentiality and the reasons for it, as being the way they work.

Mr Sergio: Are you suggesting those suggestions to be included in the new proposed bill or in the existing law?

Ms Mirani: I would suggest that they go into the draft, or Bill 8, the act to repeal employment equity. I don't think both of them belong there. It was just that say that I wanted to make a change. I think you have to offer a solution. Those are two ways that I think could be proposed. Which is the best one? Are there other ways to provide that bridge that I think is important? There may well be. I don't presume to have the only solutions to this, but I think those two are valid and a good option.

Mr Clement: Ms Mirani, if you come at it from the government's perspective and assume that there is a possibility that some of the information that is gathered by the employer from the employee is tainted by the fact that it was achieved through a coercive piece of legislation, so that there is a public policy reason for destroying that information, if you jump that jump with me, what do you see as the additional significant costs, more than incidental costs, associated in the situation where an employer and the employees agree voluntarily that there is a need for some sort of remedial action in this area, and the employer then destroys the old information and simply reproduces the survey, which would then be filled out voluntarily by the employee? Where is the additional cost there?

Ms Mirani: You've got your employee time all over again. There's a recommunication process that will have to go on to explain why the destruction and what was wrong with the previous data.

In my experience, I'm not too sure that you're going to come up with a lot of companies who have done all of the survey work. The March 1996 deadlines applied only to the largest of employers, and many of them had not conducted surveys during that time. I think you're dealing with a small number of employers who wish to continue with the data they have to hand, and I think they should be allowed to do so.

I don't agree with you that this process is tainted, having been involved in the collection of survey data. It's not a coercive process. They were voluntarily filled out in the first place. It required a great amount of communications, in fact, on the part of employers. That was one of the bugbears for most employers, that they had no control over how a person would fill this survey out. So it took very good communications and cooperation between management and union, employees and employers, in whatever context you take it, to make a successful survey, and it's not my belief that the data is in fact tainted. I would say that it's fine the way it is.

I don't say, though, keeping in mind the privacy rules or rules of confidentiality, that one wouldn't provide an employee with the right to withdraw their answer to the question if they wanted to. They had the right not to fill out the form in the first place. They had the right to fill out the form however they so chose in the first place. So I don't see that that is an issue.

Mr Maves: In your one-page brief, one of your suggestions, part 2, is: "Add a section to the bill that would require employers wishing to continue the employment equity process voluntarily to get approval from the Ontario Human Rights Commission to continue their plan as a special program under the Ontario Human Rights Code." That to me assumes that if someone voluntarily continued this process, that the current process is not based on merit and that some would take companies that voluntarily continued to the HRC. Is that the fear there and why you put that section in?

Ms Mirani: No. It's just that the Human Rights Code of Ontario has provided in the past, and it's still a section of the code, for special programs. It was always a wise move on the part of the employer to ensure that their plans met the strict criteria of the commission so that they were not making errors in how they approached the issues, so that if there were complaints, they knew their plan met the criteria that were deemed necessary under the Ontario Human Rights Code. So it's a protective measure for an employer to ensure that the plan they're embarking on meets those criteria, and that allows them the bridge to the Human Rights Commission: Get the approval and carry on.

Mr Maves: And you're a champion of maintaining data. In our equal opportunity plan, which is in its genesis, the previous speaker, Mr Borovoy, suggested that employers perhaps keep track of whom they interview for positions and record their reasons for not hiring them. Would you support that type of data maintenance?

Ms Mirani: Under certain circumstances probably I would. I think unfortunately the numbers game here has turned into an emotional issue, whereas the statistics are the one coldhearted way of looking at things, if you would like. It doesn't go on my side or on your side, because the numbers produce the data. That gives you a suggestion of either there is something fishy here—statistics would predict that one thing would happen, and something else is happening. All it indicates to you is that we're doing something different here that would produce this type of result, so it gives you a pointer in the direction that we had better look at what we are doing.

I would think from an employer perspective, if you're in Toronto and you only have men in your workplace, as a pretty extreme example, or you only had women in your workplace, one would look around and say: "There's something fishy here. What produced that result?" I think then they might be interested in knowing who applied for positions in your company so that they could examine what's going on in their process. So I think under certain circumstances it's a legitimate way of taking a look at things, and I don't have a problem with it.

Ms Churley: I have a question that's somewhat general, but given your experience and your knowledge

of the Employment Equity Act, why do you think it's necessary? Why are you such a strong supporter?

Following that, what would be your advice to this government? As Mr Maves just said, they're in the very beginning stages of their equal opportunity plans. So given what you know, your support for what we were doing, what would you advise them? What is an absolute necessity for them to follow through on for some kind of equality in the workplace to take place?

Ms Mirani: I would have to state that I am a supporter of the legislation at this point in time. I think it comes from a sense of knowing that sometimes we don't do the right thing unless we have to. But once we're doing those things, it becomes habit, and I'm not so sure then that the legislation needs to stay.

I always viewed employment equity legislation as something that should be a dynamic type of legislation, that could change as things alter, so I happen to believe in that perspective. I would also have to state that I am not someone who wanted to see more bureaucracy, more report-writing, more paper-shuffling just to prove that I'm a good guy. But I would think that somewhere in our law, whether it be under the Human Rights Code, whether it be in a revised employment equity law or an equal opportunity plan, there should be a clear statement that "This is right and you'll be in trouble if you're not going to follow the rules. If you're going to discriminate, be prepared for the consequences." You'll have to define what those consequences are.

But I think once we're on that track, you can take a look at how things are going and maybe things will to have be changed. We're in an area that is new. I think that internationally Canada is looked to for its success in dealing with these issues, so let's accept that we may not have all the right answers at the moment or the perfect way to go about it, but let's try it and let's see if we can't manage better and better utilize the resources we have in our communities that aren't being used well.

Ms Churley: So what you're saying is that any new employment opportunity bill has to be more than voluntary. If I understand what you just said, you don't have all the answers to the best approach, but it has to be more than voluntary; it has to have some kind of built-in penalty if people are not following through. There has to be a law in place that people have to follow.

My second question is, this government talks a lot about the Human Rights Code, and I'd like your opinion on how you see that working if it were to come to that. As I understand it, as the Human Rights Code works now, it would be on individual cases and not dealing with systemic, proactive problems. What would you think would have to be changed in the Human Rights Code to get at this?

Ms Mirani: To answer your first question, yes, I still say that I believe in the legislation and I think that a voluntary plan of action would not have the teeth necessary at the front end to produce the results that we might or certain people may expect to see. That kept in mind, I'm a realist too, and if it can't be that way then I would like to see, as I said, a bridge.

My problem with the Human Rights Code—I'm not an expert in human rights legislation, but the process has proven to be very adversarial and it requires one person to stand up alone and be heard, and that's a very difficult position to put somebody in. It's also expensive. It may cost you your job. It may put you in a position where you don't open your mouth because you're worried about how you're going to survive, so it's better just to bury it and let's just grin and bear it. I don't think that's a successful approach.

The other issue to hand, frankly, with human rights legislation from an employer perspective is it's expensive, very expensive, to get involved in a human rights complaint. Be it legitimate or not isn't the question here. It costs a lot of money to go through from an employer perspective as well. It's just too confrontational. We need a system that allows for mediation or some description of standards that are acceptable in employment so that people understand what they're doing.

Additionally, with the ability to have class action suits in Ontario now, you could find that under the human rights legislation we have class actions brought against employers, and that will be even more expensive. So I'm not so sure that going back to what we had is going to produce a less expensive system.

How do we revamp the Ontario Human Rights Commission to deal with equity issues? I'm not sure, because without doing employment equity and having a section to deal with it, there may be no fast stream through which to deal with those types of issues or properly address the area of systemic barriers. There is case law, though, federally through the Supreme Court that has based decisions on systemic barriers, but it's a very long process and it doesn't produce quick results that are helpful to people today who are trying to get into the workplace.

The Chair: Thank you very much, Ms Mirani. Your time is well used. We appreciate your attendance at the committee and your submission.

Ms Mirani: Thank you very much for hearing me.

The Chair: Is Mr Howcroft from the Canadian Manufacturers' Association here yet? He's not scheduled to be here for another 15 minutes, but since there's probably going to be a division in the House on private members' bills, I would guess some time just before 12, we will maybe just recess for a few minutes until he's here, and then we'll start as soon as he's available so we can be available for the vote. Let's try five minutes.

The committee recessed from 1124 to 1134.

CANADIAN MANUFACTURERS' ASSOCIATION

The Chair: Okay, if everyone can take their seats, please, we'll proceed with the next presenters, who are from the Canadian Manufacturers' Association, Mr Ian Howcroft, director of human resources, and Sandy Douglas. Have I got that right? Have I got the names right?

Mr Ian Howcroft: Yes, that's correct.

The Chair: Okay, gentlemen, you have 20 minutes. How you use that, how much of that you apportion to

questions, is up to you. The question period, whatever you leave, will be divided equally among the three parties, and we ask you to keep your answers short so we can squeeze in more questions. So 20 minutes and it's all yours. Thanks for coming.

Mr Howcroft: We have a few formal comments we'll make in approximately five to eight minutes and we'll save the rest of the time for questions. We appreciate the opportunity to provide you with our comments on Bill 8, or the Job Quotas Repeal Act.

First, I'd like to say that CMA applauds the government's initiative in this regard. Although CMA is supportive of the intent and goals of employment equity, we have always advocated that a voluntary approach was better than a mandatory or legislated approach. Consequently, Bill 8 is a positive step to eliminate the bureaucratic and process-driven employment equity initiative that had been previously mandated.

Before we provide specific comments on the initiative, it's important to note a few things about the Canadian Manufacturers' Association. We're a voluntary organization with members from all regions of the province. Our membership includes small, medium and large-sized companies from all sectors of manufacturing. Further, our membership produces approximately 75% of Ontario's manufactured output, or \$121 billion annually. There are approximately 980,000 people employed directly in manufacturing and another 800,000 involved with supporting manufacturing. It's easy to understand why we're referred to as the "engine of the economy."

As I said earlier, we've always supported the purpose and goal of employment equity, or fairness in the work-place. In our view, the removal of overt and systemic discrimination and barriers from entrance to or promotion in the workplace was and remains a laudable goal.

However, we've also recognized that this is an extremely complicated and multifaceted issue. It's not based solely in employment, as it encompasses other dimensions of society, such as education, skills development and training, demographics, family, culture and personality and personal ambition.

We've always argued against the pursuit of employment equity through legislation. Rather, we feel that a more positive and practical way to deal with this was through a voluntary approach which focused on information and education.

We're consequently very pleased that the government has decided to repeal Bill 79. The government has recognized that all hiring and promotion decisions must be based on merit. Equity in the workplace should focus on opening doors to include as many people as possible, rather than breaking people down into segregated groups. It makes good business sense to seek out the best and most qualified person for the job. Consequently, employers will look to the broader labour pool to maximize benefits and ensure that they are as competitive as is possible.

Bill 79 created a numbers-driven system based on process. It did not, in our view, focus on the positive aspects of what employers had done, were doing and

could do. Rather, it created a regime whereby employers were shackled by legislative requirements. Employers were forced to follow numerous prescriptive rules in a specified manner within a specified time frame.

Another major weakness was that Bill 79 failed to take into account an employer's unique or individual circumstances. It did not allow for the necessary flexibility by which employment equity could best be realized. Everyone recognizes that resources are limited, and to require employers to meet those requirements under Bill 79 was, in our view, not an effective use of those limited resources. We feel there are certain goals that cannot be achieved through regulation or legislation. In fact, we also feel that by pursuing those goals in that way, it's counterproductive and can even make it harder to achieve. One of those areas is employment equity or diversity in the workplace.

We do feel that government has an important role to play in this area. In fact, it's got several roles. One role should be to assist employers, employees, unions and others to understand the issue and to work towards ensuring that everyone does have an equal opportunity and access to the workplace. Government must work with the various communities to promote the education and understanding that is necessary to realize the goal of equal opportunity.

However, I'd like to say that we feel the most important role for government is to create an economic environment that encourages investment, growth and, hence, opportunity. If the province's economy is expanding and generating jobs, this will benefit all residents of the province, particularly those who've had difficulty accessing the labour market. It's therefore crucial that government do all it can to make Ontario more competitive in the global marketplace.

Again, reducing and removing unnecessary and harmful regulatory burdens is a way to help make Ontario more competitive. Bill 8 sends out a powerful and positive message that Ontario not only wants increased investment, but is taking the necessary steps to demonstrate our commitment to growing our economy.

Recently, CMA released a major paper on the importance of competitiveness and manufacturing entitled Manufacturing our Future. This document stressed that the vital role that government must play is to create a policy environment conducive to long-term competitiveness, industrial innovation and economic growth. I've included a longer passage from the section on government's role in the written materials that you have before you.

I'd now like to ask Sandy Douglas to continue our presentation and make a few comments.

1140

Mr Sandy Douglas: I would also like to bring to the attention of the committee, to further illustrate this point, CMA-Ontario's Policy and Priority Criteria. This document was developed by CMA Ontario's board of directors and it is attached to the submission. It succinctly sets out what government must do to create a prosperous Ontario. Again, it is more beneficial to all if we have an

economy which is expanding and creating employment opportunities. Mandated and prescriptive regulatory programs are detrimental to such growth.

To assist governments to conduct the necessary review of their regulatory programs and initiatives, CMA developed a business impact test. This test will allow one to assess and determine the impact or effect of any law, regulation or government program. It is essential that programs that are harmful or detrimental to our economy and its growth be modified or ended.

With regard to equity in the workplace, more can be accomplished through a voluntary program, and in fact much was accomplished prior to the legislative approach. For example, CMA has been providing information and assistance to our members on fairness in the workplace, employment equity or valuing diversity and human rights issues for many years.

An example of this was the 1986 manual entitled Employment Equity for Women — How Does Your Company Measure Up. This publication was a joint venture between CMA and the Ontario women's directorate. It was well received at the time and is an example of what can be done to productively promote the issues concerning fairness in the workplace. We will continue to provide information to our members in this area.

How Does Your Company Measure Up demonstrated that partnerships can achieve practical, positive and demonstrable benefits. Such partnerships should be encouraged in the future. We understand that the equal opportunity plan will focus on promoting such partnerships and we wholeheartedly support this direction. CMA did participate in the focus groups that the government held in developing the equal opportunity plan, and we look forward to providing further input and assistance as the equal opportunity plan is developed and evolves.

We have long argued that the more intrusive the legislated initiative is, the less chance it will be successful. Flexibility is the key to success. Working with employers to achieve practical results will generate more cooperation from employers. Employers will be more willing to accept any "buy-in" to a program or a plan which is flexible and recognizes their own specific needs, concerns and problems and is one that they had a part in developing.

Over the last few years, most employers and individuals have become well aware of the issue of employment equity or diversity in the workplace. However, there is still a need for useful information and education. A lot of information has been developed or produced over the last several years to deal with equality and equity in the workplace. For example, CMA developed a comprehensive manual on employment equity. Some of this information is specific to the legislative requirements of Bill 79. However, there is still a lot that talks about equity and diversity in the generic or practical sense.

Instead of reinventing the wheel, CMA suggests that government should promote and make available such existing materials. Information could be provided to interested parties as a part of the government's equal opportunity plan. It would include such things as how-to manuals or guidelines, samples of best practices, a guide on barrier identification and removal.

This information should also be tailored to ensure that the needs and requirements of various-sized businesses are appropriately addressed. There is no one "right" way to achieve equality or equity in the workplace. This government has recognized our long-standing position that the goal must be to broaden the options as much as possible and remove rigidities. The government could provide assistive materials that would allow an employer, and others, to understand and productively deal with diversity in the workplace.

In conclusion, I would like to emphasize that CMA supports completely the direction the government has decided to take with Bill 8. We also support the government's development of an equal opportunity plan and we'll continue to participate and offer input on that important initiative.

We'd now be pleased to answer any questions you may have.

The Chair: Thank you, gentlemen. We'll begin the questions this time with the government. We each have about three minutes.

Mr Tascona: Mr Douglas, what did you have in mind with respect to the direction the government should take with respect to an equal opportunity plan? Secondly, what direction do you think the government should take with respect to the Human Rights Code in any revisions?

Mr Douglas: In three minutes.
Mr Tascona: If you're capable.

Mr Douglas: Regarding the first question, with regard to new opportunity, I believe the government has to be a leader. I believe that they cannot mandate. I believe we have to provide direction and education. There has to be, or could be, a system that is developed where employers identified in the workplace who are leaders in this area, and there are a number of them that have obtained that kind of recognition from all parties, could assist in developing materials to help their fellow companies, if you will, push this out, this equal opportunity or diversity opportunities throughout the workplace.

As far as your broader question, I don't have an answer to that.

Mr Howcroft: I'd just like to comment on the Human Rights Commission. I think it has to be more customer-based and customer-focused. I don't know of any group that's happy with the service currently provided by the Human Rights Commission. There's an enormous backlog. That has to be addressed. We feel that if the Human Rights Commission were to change in the way it deals with some of the issues before it, it would be much more productive.

They have to deal with discrimination, but an important part of their mandate is also education and the providing of information. I don't think they're doing enough on that to make the issue of human rights broader and people more aware of it.

For example, we had a seminar on human rights to let our members know about it, and we invited the Human Rights Commission to participate. They refused, saying although it's part of their mandate, they just couldn't afford the resources to deal with education and speak at a seminar. I think that attitude has to change.

Mr Tascona: Do you think the Human Rights Code is too litigious?

Mr Howcroft: I think the Human Rights Code is too litigious, yes, and the way it's handled and processed, it garners that type of relationship with the parties.

Mr Clement: Have you done any studies as to the cost to business of evaluation of individuals in job hiring practices?

Mr Howcroft: Has CMA done any studies?

Mr Clement: Yes.

Mr Howcroft: No, just anecdotal evidence that we get through our human resource committee meetings. We didn't do any specific costing of that.

Mr Clement: Can you share the anecdotal, or is that just too—

Mr Howcroft: Well, it depends on the company, the size, the sophistication, what they've done. Many companies had already gone a long way to working towards ensuring their workplaces were equitable, and it wasn't as onerous a task for them to make some of the changes they had. Some of the problems were that they had to make changes that weren't practical or weren't going to improve anything but were just to meet the bureaucratic or the paper burden aspects of the equity legislation.

Mr Clement: I guess what I'm getting at is you're pretty confident that the employers that at least are members of the CMA do practise, I would say, extensive individual job promotion and hiring efforts to find out—I'm trying to get confirmation that they do try to find out who has merit and who doesn't have merit, I suppose is my question.

Mr Howcroft: With the competitive atmosphere that exists today, you have to ensure that you have the best people to do the job. That's one of the tenets of doing business, that you have to have the best person, the most meritorious person, for the job. Otherwise you're not going to be competitive and you're not going to be around very long.

Mr Grandmaître: You say that your membership is from across the regions of this province. What would be your membership?

Mr Howcroft: Large, medium and small-sized manufacturers from all sectors: auto industry—

Mr Grandmaître: What's the number?

Mr Howcroft: I believe we have approximately 2,000 corporate members and 6,000 or so individual members.

Mr Grandmaître: Thank you. Also, in your presentation you say that you're dead against the pursuit of employment equity through mandatory legislation, and also that you've been promoting fairness in the workplace. Can you tell me, out of the 2,000 members of your organization, how many voluntarily worked out an employment equity plan?

Mr Howcroft: I can't tell you that, no. We didn't survey our members. We made our members aware of the legislative requirements and we developed an employment equity manual to assist our members in dealing with employment equity and the Bill 79 requirements. We also have other human rights publications, racial and sexual harassment, so we've done a lot on the productive,

positive side to educate our members on the issues in general, and also with regard to the specific legislative requirements.

Mr Grandmaître: But you say you've been promoting this fairness in the workplace, and you haven't followed up on the number of plans or small, medium or large businesses that do have—

Mr Howcroft: We've followed up by continuing to update our members on the issue in our newsletters and in special bulletins and in the seminars and workshops we've scheduled.

Mr Grandmaître: But you don't have an exact number of—

Mr Howcroft: No.

Mrs Pupatello: You mentioned in your document that you already do the things that you're requesting government go back to doing, and that is educate, and you list a number of examples where the CMA has worked with government agencies in promotion and education. So you're recommending we do the things that we've always been doing?

Mr Howcroft: Do the things that we've always been doing and do them better and—

Mrs Pupatello: And in your document too you focus in on the merit principle. Would you have been content that the act was amended to focus on merit, as opposed to the quotas?

Mr Howcroft: We had always argued that the act should codify the merit principle, but we'd also prefaced every submission and presentation to the former government that we were against the mandatory legislation. So we would never have been happy with a legislated or mandatory approach, but we had also argued that if you're going to have that, you had to recognize the merit principle.

Mr Marchese: We have a big problem that this bill will not resolve and that in fact it will enhance. I made some comments in the House around this bill where we did a study, the Bank of Canada did a study, 1990—this is after the federal government's employment equity bill, 1986—and it showed the outdated views that people—that men—within the Bank of Montreal have about women. There's a whole list of them, which is too long to get into because we only have a few minutes—1990. This is not 1980, 1960; 1990.

Then we have the Canadian Civil Liberties Association, which did a 20-year study of employment agencies, and over its 20-year study, it has shown these employment agencies are quite willing to discriminate. If someone calls in saying, "We don't want a black person; do you think you can do that?" they do that.

We have Judge Abella's report, 1986, which became the basis for the federal government employment equity bill, which identified the systemic discrimination that exists for women, people with disabilities, people of colour and aboriginal people.

It's clear, the studies show it, yet what you're proposing is that we have a voluntary system. What you're saying is we need to create a good economic environment, then everything will be okay. But it's not, because the systemic problem that all these studies identify is that

these four groups of people, which constitute 65% of the population, are underrepresented or underemployed and never get through the ranks.

It's a problem. Bill 79 was intended just to do that, to correct that. It doesn't say anywhere that you will not hire based on merit. In fact, merit is the key. It's part of what we say.

Mr Howcroft: It wasn't codified or mentioned in the bill. That was our problem with regard to merit on that.

Mr Marchese: But nowhere in the bill-

Mr Howcroft: Mr Marchese, we do recognize your point. That's why we said it's a multifaceted issue and you can't just address it by one way. We're suggesting that the voluntary approach is for employers, but there has to be an important role in providing information and education. It also has to go back to our education system, the skills and training system, because we recognize the points that you've raised, that it is a broad issue that you can't just address by one activity. You've got to do it allencompassing.

Mr Marchese: But employment equity did that. It addressed all of these aspects. For example, you focus on other dimensions of society such as education. I've looked at studies that show that the black community in particular has high levels of academic education. And yet, in spite of that, they're underemployed. They're not employed in spite of the qualifications. It tells you we have a problem.

We have addressed that. Bill 79 addresses these barriers, and it looks at it and says: "Don't just hire based on a merit system that is biased. We need an objective system that is not biased, and we don't have that. But Bill 79 attempts to bring about some fairness in the hiring practices that otherwise will not be corrected by an equal opportunity plan." Your response.

Mr Douglas: I'd like to draw you back to the point Ian made, that you cannot legislate people to change. It is not possible to do that.

My wife is a teacher in elementary school, and, as a female, she covers any number of grades, and there is a perception among some children, males, in grades 2 and 3 that women are inferior, and they treat her that way, as an adult and as a teacher.

Our point is to come back to education, and education has to be the way. Whether you do it in the workplace or you start in the schools, it is the only way that you're going to get to resolve this problem. Mandating people or quotafying a system isn't going to do it.

The Chair: On that note, your time is up. Thank you very much, gentlemen, for your presentation. The committee stands recessed until 3:30 this afternoon.

The committee recessed from 1155 to 1532.

OMNIBUS CONSULTING

The Chair: Out of respect for the folks who are here to present, we're going to get started on our afternoon session.

We welcome the people from Omnibus Consulting. We have allotted you 20 minutes—everybody gets 20 minutes—and how you use that 20 minutes is up to you; any

part you want to leave for questions is at your discretion. So welcome, we appreciate your coming here, and the clock has started.

Mr Trevor Wilson: Good afternoon, Mr Chair. My name is Trevor Wilson. I'm one of the partners at Omnibus Consulting. I'm joined by Renee Bazile-Jones and Bruce Anderson, both partners of Omnibus. We appreciate the opportunity to present to you today and comment on Bill 8.

You may know that Omnibus Consulting is a company specializing in the area of equity and diversity in the workplace. We're most interested in any development in the areas of equity and diversity in the private, broader public or public field. I'm going to ask Renee to read a prepared statement, which we have copies of, and then we'll leave some time for questions and answers.

Ms Renee Bazile-Jones: Good afternoon. Since our founding five years ago, we have built a reputation and a clientele dedicated to the pursuit of fairness in the workplace. Our approach, commonly known as the business case for equity, predates any Ontario legislation and will survive long after the legislation is gone. We do not therefore mourn the passing of Bill 79, but we do believe that some of the aspects of employment equity it contained are worthy of an afterlife in any equal employment opportunity plan. In fact, a survey conducted by Omnibus just after the election indicated that 70% of over 200 respondents intended to continue their diversity initiatives.

The name of our company, Omnibus, is a Latin word meaning all-inclusive. We believe in the creation of equitable employment systems, ones which are based on merit and fairness for all.

The word "equity" means fairness, and you cannot create fair employment systems for certain groups of people. A system which is more fair for me as a racial minority woman, for example, than it is for one of my white male counterparts is not a fair system. A fair system is based on an objective assessment of the bona fide requirements of a given job and an unbiased assessment of the proven skill sets and competencies of the candidates, be it for hiring, transfer, promotion or distribution of rewards.

The meshing of these two sets of information constitutes our working definition of "merit." The title of Bill 8 talks of one purpose of the act being "to restore merit-based employment practices in Ontario." While the bill says nothing further on the subject, we would question whether looking back to past practices is necessarily the best prologue for the future.

There have been studies, commissions, consultations and a wide variety of activities over the past 15 years in Ontario, under governments headed by all three parties in the Legislature, which indicate clearly that there has been an imbalance in the employment system in favour of white, able-bodied males. Those are facts which do not need to be examined or debated again. The upshot, however, is that a tremendous amount of talent is being overlooked in recruiting and promotion practices. This is not an overt, discriminatory plot but rather the result of practices which have grown up and become entrenched

and taken to be "That's just the way we do things around here."

There is ample evidence that this unintentional, or systemic, discrimination has had an adverse impact in the workplace, with the result that we may not always seek out the best and brightest talent regardless of packaging. We are encouraged that the present government intends to do something to support the carrying out of employment system reviews to root out the bases of discrimination in the workplace.

The Cummings report, in 1988, concluded that Ontario was underutilizing its available talent to the tune of \$2 billion a year. In our present economy, where productivity improvement and global competitiveness are essential for survival, we cannot afford the luxury of perpetuating employment systems which ignore available talent. We must seek all the ways and means to maximize the neurons available to all of us for every wage and salary dollar we spend, and that goes for all sectors of the economy—private, broader public and public.

The demographics of Ontario are there and won't change. The well-known Workforce 2000 study has indicated, for both Canada and the United States, that white, able-bodied males will make up only 20% of net new labour force entrants to the workforce over the next decades. Systems which were seen as fair in the past for a highly homogeneous workforce will no longer be relevant for the heterogeneous workforce of today and the future. Providing direction for the accommodation of these realities is a legitimate role of government. Legislation is not the answer; you cannot legislate fairness. However, education, examples and support can be provided by government, and the equal opportunity plan could be a start. The roadmaps for achieving accommodation and fairness may change, but the landscape—the realities of both the workplace and the marketplace—will not.

We are often asked by clients, "How will you know when you've achieved fairness?" Our answer is always the same: "Ask your employees. They are the experts in the fairness of your employment systems." A major problem with legislated fairness programs is that everyone's focus goes to the numbers. Quantitative measures become the yardstick, which then usually results in cries of reverse discrimination on the one hand and tokenism on the other. This was one of the major outcomes of the affirmative action program in the United States. They had quotas, ie, externally imposed targets, as did the police forces in Ontario.

Bill 79 did not call for quotas in the usually accepted sense, but nevertheless the focus was still on quantitative measures and outcomes, which prompts a side comment on subsection 1(5) of Bill 8. All the clients we work with have collected information as part of their employment equity and diversity initiatives. None of them did it "exclusively for the purpose of complying with Part III of the Employment Equity Act, 1993." We are advising them not to destroy any information. The results of an employment systems review, for example, are "information," and it would be ludicrous for the government on the one hand to be encouraging such activities to root out

the causes of discrimination while on the other allowing an interpretation of Bill 8 that would tell employers to destroy previous work.

The same can be said for demographic information collected via a self-identification questionnaire. Many employers, with union and employee support, did this voluntarily as part of their diversity initiatives; others did it as part of the federal contractors program. To destroy all this kind of information would truly be throwing out the baby with the bathwater. In addition, many employers have spent considerable sums of money to upgrade their human resource information systems to handle diversity-related information. To leave the impression that this work was in vain and money down the drain is hardly a fair reward for honest efforts.

1540

Let's return to the measurement of fairness. This government has an opportunity to light the path away from numbers and towards what really matters: the perception of fairness in the workplace as seen by the employees who live there. Well-designed employee surveys are the most reliable, cost-effective way of approaching this challenge.

Traditional employee opinion surveys will not necessarily fit the bill. The situation requires a survey specifically designed around questions probing the degree of fairness in the human resource management systems. Surveys provide an opportunity for everyone to participate in an anonymous fashion. Respondents are asked for limited demographic identification in order to compare results, for example between men and women. If there are no differences in scores—ie, both groups see the situation in the same way—we would say that represents a fair workplace from a gender perspective. If there are differences, the results begin to build an agenda for improvements in the employment system.

Coupled with the results from an employment systems review, based also on employee participation, the employer and other interested parties have an excellent idea of where to make improvements. We believe that there are strong connections between job satisfaction, improved performance, customer satisfaction and the bottom line. The establishment of equitable employment systems can only make sense for every organization in Ontario, profit and not-for-profit.

As we indicated earlier, 70% of our survey respondents intend to continue their fairness initiatives, without legislation. In the absence of legislation, we believe the role for government would be to demonstrate your commitment to fairness by shifting the focus from quantitative measures, and their concentration on the numbers, to an endorsement of qualitative standards of fairness with Canadian norms. These standards would become the floor for fairness in the workplace.

Given that this government can only truly influence those organizations with which it conducts business with the passage of Bill 8, one possibility would be to consider a program of "contract preference," the reverse of contract compliance. Organizations with a proven record of establishing fair workplaces, as measured by such things as employee surveys, would be given preference in bidding on government contracts, a true example of positive reinforcement and a means of supporting organizations that implement the qualitative standards you have defined or identified.

In addition, the government might also create an equal opportunity fund to underwrite research in the development of methodologies to identify the causes of discrimination and the fostering of workplace fairness.

In closing, we would like to emphasize again the importance of establishing equitable employment systems as a means of meeting the expectations of all the workers and potential workers in Ontario. Due to recent events, the expression "employment equity" has become a dirty word. But the results to the economy as a whole and the wishes of individual citizens will not be changed. Workplace and marketplace diversity must be encouraged and continued in order that Ontario can maintain its place as the engine of Canada.

We recently were visited by a delegation from a private sector employer from South Africa which had come to Canada, and particularly Ontario, to find out how to "do diversity" the right way. Just this week we were contacted by a professor of labour law in Japan who is preparing an article for the Japanese ILO Association periodical and is seeking information on Ontario practices. Others are looking to us as models.

Many Ontario employers have embraced diversity as a sensible way to run an organization as we approach the 21st century with, among other things, the shrinking of the world through information technology. We've got some good things going, and we urge the government to more positively and quickly support and encourage the recognition and management of diversity in the workplace and the marketplace.

We'd like to thank you for the opportunity of meeting with the committee this afternoon, and if you have any questions we'd be happy to take them.

Mr Grandmaître: I'd like to refer to page 1 of your brief. "In fact, a survey conducted by Omnibus just after the election indicated that 70% of over 200 respondents intended to continue their diversity initiatives." Can you amplify "diversity initiatives"?

Mr Wilson: For us, diversity and equity are intertwined. Omnibus describes itself as an organization committed to achieving equitable employment systems. The way we do that is by designing diversity strategies for organizations. Not to go into a long educational program about it, but the concept of diversity requires managers to pursue equitable treatment.

Managers in North America have been taught to treat people equally; that is, to treat them just the same and ignore their differences. Equity is about treating people fairly and that means acknowledging their differences, and diversity is about acknowledging differences.

So what we've been designing for organizations are diversity programs, the end point of which would be the creation of an equitable or a fair employment system.

Mr Grandmaître: The second question is from page 3: "...the path away from numbers and towards what really matters—the perception of fairness in the work-

place as seen by the employees who live there." Don't you think we've had this perception of fairness for 50 years; that it's now time to change this perception to reality?

Mr Wilson: The distinction in the Omnibus approach is that we don't think you've ever had merit-based employment systems. You would listen to, let's say, some members of the Republican Party in the States who say, "Let's go back to the merit principle." You were never at the merit principle. You were never there to begin with. There's nothing to go back to.

If you take a look at the inequities that have existed in employment systems, they've existed there for a long time—for more than 50 years; for hundreds of years. We are attempting to ferret out inequities in employment systems and introduce merit, but we recognize you cannot do that just for one group, two groups or four groups. Thus the name of our company, Omnibus, which means fairness, but it has to be fairness for all, which means inclusiveness, and therefore, fairness for all.

The Chair: Excuse me, I have to interrupt you and move on to the next questioner.

Mr Marchese: I have a question for Mr Wilson and Renee. You obviously recognize that there is unintentional discrimination and sometimes very intentional discrimination going on. You admit, Trevor, that we've never really had hiring based on merit, and we want to return to it. If we return to it, we're in trouble. You admit that and we recognize it's a problem.

You said that past practices are not good practices to look at for future solutions, and that we're underutilizing talent by a couple of billion dollars. You admit all of that, and that you don't mourn Bill 79 and you don't like it necessarily because, although not a quota system, it has quantitative measures, and so you recognize we have systemic problems to deal with. Bill 79 wasn't it.

What you're all looking for is an employment system kind of—not review, but an equitable employment system which you hope to work with in a nice way with employers to get to solve the questions that you're aware of. I'm not sure we need an equal opportunity fund to find causes of discrimination. I think we have plenty of evidence to do that.

So you're hoping that in this equitable employment system the employers will somehow come to the encouragement of this government and that everything will hopefully in time be all right. Is that what I'm hearing?

Ms Bazile-Jones: I would suggest to you that the organizations that we work with would not be looking to this government to be a role model for an equitable employment system. There's an absolute understanding of issues of systemic discrimination, and they apply to everyone, not just certain groups of people.

If, for example, people are hired and promoted on the basis of who they know, that's an employment practice that applies to everyone, not just certain groups of people. So if in fact I work on strategies that eliminate that practice from the employment system, I am creating fair practice for everyone, not just certain groups of people.

We seem to float around this construct of merit a lot, but it is important to acknowledge that merit has never existed in employment systems. There are plenty of examples out there in workplaces. "I got promoted based on the fact that I'm related to the hiring manager." "I got into the organization because I play golf at the same club as the person who's doing the interview." These are all well-documented cases of unintentional discrimination.

We would also suggest to you that there are two parts to this when we talk about discrimination in workplaces. There are attitudinal discrimination, sexism, racism, agism, halism—whether or not somebody's able-bodied—as well as unintentional practices.

What we are suggesting in the idea of the formulation of an equitable employment system is that I try and take those practices and attitudes out of the workplace, but when I take them out I don't take them out selectively for certain groups; I take them out for everyone.

1550

The Chair: I'm going to have to cut off the answer. The answer's taken a little too long. Mr Clement.

Mr Clement: I think you've really struck in your last comments about the nature of the challenge and I am conscious of your comment about throwing the baby out with the bathwater. Could it be said, though—and I want to turn to your contract preference idea and how, to me, government involvement in this area in fact does throw the baby out with the bathwater on a number of different levels when trying to attack this problem. Contract preference: Could you just elaborate on how that is going to be different from contract compliance, because I fail to see the difference.

Ms Bazile-Jones: I'll turn that over to my partner, Bruce.

Mr Bruce Anderson: I think the idea there was to get away from the concept of contract compliance whereby you were going to be penalized for not having done something and to reward people for having done something, albeit voluntarily, and they would get extra recognition in terms of bidding on government contracts.

The basic concept is high road-low road. The companies which are on the high road should get recognition, they should get some reinforcement, they should get some reward, and companies which are on the low road, if they're not going to be penalized as a result of some existing piece of legislation, at least could be penalized by not getting preference for, say, government business. That's the basic idea.

Mr Clement: Because one of the problems they found in the States with contract compliance was that in fact the companies know how to use the system, right? That's what our world is made up of: people who know how to use the system and those who are unfortunate not to do that, especially when government has economic power. So they know how to use the system, so they construct their companies or subsidiaries so that they comply contractually but really it's a sham. You've got the same power structure that is just taking advantage of the system, and the people who were shut out before are shut out now. So I fail to see how this would alleviate that problem.

Mr Wilson: It's all in the measurement. One of the things that we refer to is the push towards qualitative measurement. There needs to be a consistent, scientific way to measure fairness in the workplace. Now, we happen to know what that is. The issue is the government has to endorse similar to an ISO 9000 approach to the measurement of fairness in the workplace and move away from numbers.

The Chair: Thank you very much, Mr Wilson, Mr Anderson, Ms Bazile-Jones. We appreciate your attendance, and your time is up.

For those members of the committee, there is an updated schedule for this afternoon. It has a few changes on it. The other thing, from our discussion this morning, OPSEU has found a place on the list and it will be on on Monday afternoon, I believe. So we did get them on the list.

Mr Grandmaître: What are the changes, Mr Chair? The Chair: The change this afternoon is the person at 6:10 has cancelled and the group at 4:30 was supposed to have been Women in Transition and is now Shalom Schacter, and you'll see some extra names added in for Friday.

ONTARIO NURSES' ASSOCIATION

The Chair: We now welcome, from the Ontario Nurses' Association, Jane Cornelius, Kim Bernhardt and Noelle Andrews. You have 20 minutes. How you use it is up to you. Welcome. We appreciate your being here.

Ms Jane Cornelius: Thank you. Good afternoon. My name is Jane Cornelius, and as President of the Ontario Nurses' Association I am here representing approximately 50,000 unionized registered nurses and allied health personnel working in Ontario hospitals, nursing homes, homes for the aged, community health, VON, Red Cross and industry. On behalf of our members, I would like to thank you for the opportunity to formally raise our concerns about the government's proposed approach to employment equity.

With me here today to my left is Noelle Andrews, director of external relations, and to my right, Kim Bernhardt, our research officer specializing in human rights.

Our members expect and need workplaces that are free of discrimination and that provide an equal opportunity for all individuals to contribute to their fullest extent possible. The Employment Equity Act currently in effect acknowledges that certain designated groups are underutilized within the Ontario workforce due to discrimination. These groups include aboriginal people, the disabled, members of racial minorities and women.

Not only is this an inequitable situation from a moral and ethical viewpoint, but it prevents Ontario from having a workforce that is truly representative of its society. It also does not make sound economic sense to underutilize and undervalue the vast segment of the workforce.

While other jurisdictions are moving on with the promotion of equity programs, including the federal government, Quebec, and parts of the United States, we wonder why the Ontario government is intent on rescind-

ing the Employment Equity Act. Despite this, many employers in Ontario and elsewhere are continuing with their equity initiatives, having come to realize during the process that inequities exist in their own workplaces. A number of employers we deal with say they will be continuing with their equity programs, having recognized the need for a representative workforce.

To repeal the legislation will leave these employers and ourselves, as the representative union, in a quandary. There will no longer be any criteria, guidelines or enforcement measures for us to carry out this important work. How will we achieve equity? How can employees ensure that they will be full participants in any of their employers' programs?

There has been too much work done and too many heightened expectations for employers and employees to suddenly abandon employment equity at this stage. We urge you to recognize this and not to take this retrogressive step.

Should Bill 8 be enacted, it would effectively stop efforts to proactively redress the inequities that had been found to exist within our workplaces. It will also have a chilling effect on the voluntary efforts on the part of employers to attain a workforce that fairly represents the Ontario workforce.

Why do we need the Employment Equity Act? There is clear evidence produced over the years that although the four groups targeted in the act compose 60% of the population, the members of these groups account for a much smaller and poorer paid percentage of the workforce. The equity legislation ensures that Ontario's workforce reflects the diversity of the population.

To quote Andrew Cardozo from a column of July 8, 1995 in the Toronto Star: "Study after study has proven incontrovertibly that most women are not treated equally by employers, and that immigrants and racial minorities are on average more highly educated than the rest of the population but suffer higher rates of underemployment and unemployment. The status of qualified disabled persons remains embarrassingly low and aboriginal people get crumbs at best."

What this demonstrates is that although the Human Rights Code has been around for more than 30 years, it has not been able to eradicate the systemic barriers. Our members experience these systemic barriers in the health care industry. Nursing is a female-dominated profession; 98% of nurses are women, as is health care in general.

Nursing also has a large component of racial minority members and an extremely high rate of work-related injuries frequently resulting in some form of disability.

Nursing has members in each of the four designated groups and although the problems and issues may overlap, each group faces its own unique problems which the current legislation addresses.

Disparities within the health care system become more apparent in the upper echelons of staff hierarchies which are disproportionately represented by men. Without equity legislation, employers are not compelled to ensure that women in the health care sector are fairly represented throughout all occupational groups. Mandatory legislation

would open up training, education and advancement opportunities for women.

Many, if not most, of our members also carry the responsibility for caring for their families. Consequently, many choose to work part-time rather than full-time in order to accommodate both their family life and their home responsibilities. In effect, nurses, not employers, have had to make the adjustment to their special needs, yet equity legislation requires employers to develop ways to accommodate workers with family responsibilities.

The issue of disability and how disabled nurses are to be accommodated in the workplace is extremely important to ONA members. Each year in Ontario more than 2,000 of our members are injured on the job and receive workers' compensation benefits as a result. Many others have their claims denied by WCB even though they are injured.

Although employers are obligated to accommodate injured workers under our collective agreements and under the Workers' Compensation Act and the Human Rights Code, we continue to face an uphill battle trying to convince employers to fulfil their obligations appropriately. Equity legislation provides one more incentive to convince employers that it is against the law to discriminate against disabled workers and encourages their active role in the development of policies and procedures for accommodating disabled workers.

1600

Racial minority groups are well represented in nursing, but primarily at the staff nurse level. They are not equitably represented through the various occupational groups which exist in the health care sector. This is apparent even in hospitals where 30% to 40% of staff nurses may be racial minority group members.

Because of such situations as the investigation of Northwestern General Hospital by the Human Rights Commission, we are aware that racial minority nurses tend to be placed in areas of work that are often considered low status, boring and dead end. Injury rates are high and generally serious because the work is often physically very demanding. Educational opportunities are limited because management often does not perceive the need for staff in those areas to become trained in many procedures that are required for movement into more high-tech, high-status areas.

In terms of aboriginal nurses, there are fewer than 400 nurses currently practising in Canada. We are unaware of how many of these nurses are practising in Ontario. It appears that the most serious barrier to aboriginal people wanting to become nurses is entry into the profession.

It is only through mandatory employment equity legislation that access into nursing or other nursing care professions will improve for aboriginal people. Without set numerical goals and timetables, health care facilities in areas with high aboriginal populations will continue to be unrepresentative of their clientele. We have already experienced the results of health care services that are not inclusive of the aboriginal community: lower life expectancies, higher substance abuse, higher teenaged pregnancy rates and higher suicide rates.

It is because of these and many other real concerns that ONA has welcomed the government's equity initiatives and fervently wishes these initiatives would continue. The fact that this government plans to stop the work that has already begun into resolving those inequities is disturbing, to say the least. Equity, for our members, is not an advantage; it's a basic requirement that enables them to work in this province.

Our greatest fear is that the intent of Bill 8 is to wipe out any trace of employment equity in Ontario. By calling Bill 8 An Act to repeal job quotas and to restore merit-based employment practices in Ontario, government is sending the message to Ontario residents who are designated group members that they are lacking in merit. One must question whether we did not enjoy merit as a sole basis on which to hire and promote.

Numerous studies have consistently shown that there's a preference by employers to offer white candidates jobs over black candidates with exactly the same merit. It is precisely because the qualifications, potential experience and ability of people from designated groups are too often overlooked and underestimated that employment equity legislation is necessary. When Ontario finally does utilize the full potential of all its workforce, our competitive edge will increase. This is why so many companies are able to make a business case in support of employment equity.

This government continues to perpetuate the myth that the act contains quotas similar to those found in affirmative action legislation in the United States. At most, the act requires employers to set numerical goals, along with other measures, in order to determine whether or not they are making reasonable progress in their hiring policies to reflect qualified applicants available from all groups. What business runs successfully without measurable objectives? Businesses set goals for every other business function, so why would they not for equitable hiring and planning of underrepresented groups?

Finally, the government has stated its intention to beef up the Ontario Human Rights Commission in the belief that all equity work could be handled through that avenue. It is our experience that the Ontario Human Rights Commission, as it currently functions, cannot properly handle employment equity on its own, despite having the legislative ability.

Given the existing backlog of cases, the lack of willingness or inability to handle more and complex cases, added pressure would not likely produce the necessary results. It seems to us that a switch from a cooperative, proactive model to a complaints-based approach would be inefficient and problematic. As an alternative, should the government still find it necessary to eliminate the Employment Equity Act, the commission would have to be improved in order to fulfil its mandate for providing equity to the province.

In summary, we make a number of recommendations to the committee today, including:

1. Keep intact the current Employment Equity Act, the Employment Equity Commission and the Employment Equity Tribunal.

- 2. Develop a comprehensive educational program to correct the myths about merit and quotas surrounding the current legislation.
- 3. Review the act after a five-year period to determine its effectiveness as per section 57.
- 4. In the alternative, should the government continue with its plan to dismantle the act, the Ontario Human Rights Commission should be properly equipped to effectively handle equity matters in this province.

In summary, on behalf of the organization, the fears that had been raised, we firmly believe that under employment equity legislation qualified white males will still be able to find work, but the competition will be stiffer. Unqualified people from designated groups will not be hired and the workforce in Ontario will be different because the composition of the people in Ontario will be different. As a result, we do not wish to see the enactment of Bill 8.

The Chair: Thank you very much. We have a very short period for questions, starting with the members of the third party. Mr Marchese, you have about a minute and a half.

Mr Marchese: I'm not confident that this government necessarily would help the Human Rights Commission to equip it to handle equity matters. The difficulty is the Human Rights Commission, as it is structured, doesn't deal with systemic problems—that's what Bill 79 was designed to do—and it's reactive, which means you need a complainant in order to deal with the problem. In the end, we're not quite sure whether those complaints get dealt with. So I'm not quite sure what they would do or intend to do with the Human Rights Commission that will make this any better. So I'm concerned.

I was interested in the comments you made on page 9, which deal with: "Unfortunately, the government's plans have left the parties, employers, unions and individuals, in a vacuum. There are no longer any criteria, guidelines, resources or enforcement measures...."

I was interested in that particular line because what we have with this plan is the complete elimination of anything that would guide people to do something with. We have a plan which we don't quite understand, which isn't quite clear. It goes back to the old plan of equity, which we have had for a long time, presumably, but never dealt with any equity. So we have a problem. Can you comment on this plan?

The Chair: Mr Marchese has used his minute and a half to make a statement, so there's no time for you to answer that question.

Mr Marchese: You can answer my question when they ask theirs, okay?

Mr Stewart: My question will be very short. In your presentation, I did not hear the word "ability," which concerned me very, very much with the profession that you represent. That's the number one thing.

The other one is, I wish you would read again the portion where you said that white males will be able to get a job elsewhere. Is that what you said?

Ms Cornelius: No.

Mr Stewart: Could you read me what you said, please? Just about the white males. I was just a little concerned about it.

Ms Cornelius: I said, "In summary, on behalf of the organization, the fears that had been raised, we firmly believe that under employment equity legislation qualified white males will still be able to find work, but the competition will be stiffer."

Mr Stewart: Are you suggesting, then, but not in your profession?

Ms Cornelius: No, I'm not suggesting in my profession.

Mr Stewart: Okay. The other question I asked was, I did not hear the word "ability" in your presentation, and that would concern me in your profession.

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Ms Cornelius: I think if we go back in terms of how to become a registered nurse, one has to successfully complete a program and then apply for registration to the College of Nurses. So ability in the fact that people are registered I think is already inferred.

Mr Stewart: Yes, but that doesn't always hold true, unfortunately.

The Chair: The time has elapsed. I feel like I'm on a quiz show here.

Mr Marchese: She needs time to respond to that.

Mrs Pupatello: In your comments about the aboriginals, you mentioned "the most serious barrier to aboriginal peoples who want to be nurses is entry into the profession." Did you mean entry in terms of being education or once they are educated?

Ms Cornelius: It's somewhat of a vicious circle because, number one, what we were referring to in the act was in terms of getting people hired and then once people are hired and people are seen modelling, then more people will want to enter the profession. So it's kind of that circle, all the way around.

The Chair: Thank you very much. We appreciate your taking the time to come and make your presentation to us.

FEDERATION OF WOMEN TEACHERS' ASSOCIATIONS OF ONTARIO

The Chair: The next group is the Federation of Women Teachers' Associations of Ontario and they're represented by Sheryl Hoshizaki and Aida Hill.

Welcome to our committee, ladies. You have 20 minutes and how you use that is up to you. You can leave some time at the end for questions or use it all up in your presentation. Thank you for being here. The floor is yours.

Ms Sheryl Hoshizaki: I'm Sheryl Hoshizaki and I'm the president of the Federation of Women Teachers' Associations of Ontario. With me, I have Aida Hill. She's an executive assistant with the organization, responsible for equity programs, and also she's a dedicated advocate of a just and inclusive society.

We're an organization and we represent 41,000 women who teach in Ontario's public, elementary schools. As an organization, we've been a leader in promoting equal

opportunity for women in education since our founding in 1918.

We're pleased to have the opportunity this afternoon to present our concerns about the proposed Bill 8 to the standing committee on general government.

First, let us be clear that the very title of this bill is one which insults all of those who have been hired or promoted under the provisions of previous laws and requirements which have been in place, in some cases, for many years. However frequently reasonable people have attempted to establish that goals for achieving equity are exactly that—goals and not quotas—this government now is planning to enshrine the misnomer "quotas" in the very title of this bill.

To add insult to this misrepresentation of legitimate attempts to encourage employers to work towards having the workforce more adequately represent the population of Ontario, the title of the bill goes on to state that "merit-based employment practices" need to be "restored" in Ontario.

This title is an affront to every person, whether they are members of designated groups or not, who has been selected or promoted into job positions in recent years. To state that these selections or promotions were given to individuals who were not meritorious is an insult to these employees and to the employers who hired or promoted them. We urge every consideration of the change of name for Bill 8 so that the historical record does not shame the members of this Legislature in the future.

What we would like to present this afternoon is an overview of the women teachers' experiences with promotions throughout the history of Ontario education, so we'll move on and I will just highlight some of the specific examples that we feel were key years in which announcements were made in the Ministry of Education.

In 1973, Thomas Wells, Minister of Education, stated:

"It stands to reason that an educational system that prides itself on offering equality of opportunity to its students should practise the same attitude in respect to those who serve within the system."

In 1976, again Thomas Wells, Minister of Education, pointed out that 69% of elementary teachers were women and only 15% of principals were women and that 30% of secondary teachers were women while only 2% of the principals were women. He directed the school boards by stating, "I encourage you to have a stated equal opportunity policy and to formulate an affirmative action plan for implementing that policy."

Again in 1980 the assistant deputy minister shared further statistics, showing that women were 72.2% classroom teachers at the elementary level but held only 12.4% of the principalships and that women were 34.2% of the teachers at the secondary level but held only 2.9% of the principalships, and you can read what he stated there.

During 1979, 1980 and 1981, the Ministry of Education, the Ontario women's directorate, school board personnel and FWTAO staff worked together on an outline for boards of education entitled Design for Affirmative Action: A Guide for Boards of Education.

This resource, along with other publications, was widely circulated and provided to school board personnel through educational programs offered by Ministry of Education and women's directorate staff.

In 1981, Harry Fisher, Deputy Minister of Education, released a statistical analysis of male-female staff in the educational system and he observed, "It is notable that there is a continuing tendency to consider less than half of the potential talent pool in selecting persons for leadership roles."

Then in 1982-83, FWTAO joined with the Ministry of Education, the Ontario women's directorate and 14 other educational organizations in cosponsoring a conference entitled Focus on Leadership. In 1984, the Minister of Education at that time, Dr Bette Stephenson, declared that the Ministry of Education would be "requesting and encouraging school boards throughout Ontario to:

"—Develop and communicate a formal affirmative action policy to school board staff and the Ministry of Education;

"—appoint a senior staff member to develop and coordinate an affirmative action plan; and

"—design and implement an affirmative program covering both academic and non-academic staff and including goals and timetables for the hiring, promotion and training of women employees at all levels."

Then there was a memorandum in 1984 announcing incentive funding made available to employers.

In 1986, at this time only 60% of the school boards had made use of the incentive funding. Again, women in the public elementary system were 69% of the teaching force but only 27% of the vice-principals and 12% of the principals.

In 1986, Sean Conway, Minister of Education, announced the extension of the availability of funds to school boards, again requesting that school boards "plan to demonstrate evidence of significant progress towards the achievement of an environment that exemplifies sex equity." He further established the objective of "raising the number and diversifying the occupational distribution of women to a minimum of 30% in all occupational categories by the year 2000." That was memorandum 92 which this Ministry of Education is proposing to revoke.

In 1987, Duncan Green, again outlined the extension of incentive funding. Then in 1987, FWTAO, using Ministry of Education data, demonstrated that women were 69% of the public elementary teachers, 27% of the vice-principals and 12% of the principals. Very simply, one out of every four men in public elementary schools held a position of additional responsibility, while one out of every 40 women held a similar position.

In 1987, Bill 69, An Act to amend the Education Act, received first reading. It established that the minister would have the power to "require school boards to establish and maintain a policy of affirmative action with respect to employment and promotion of women."

In 1988, Chris Ward, Minister of Education, distributed memorandum 102 outlining the reporting requirements for boards of education stating, "It is essential that affirmative action/employment equity programs become an

integral part of the long-term planning and human resources management strategies of school boards."

In 1988-89, FWTAO, along with the ministry and the Ontario women's directorate, organized another conference, Focus on Leadership II. Then Bill 69 was passed in 1989, granting the minister the power to require boards of education to take action to increase the numbers of women in educational leadership.

What was very important was that Chris Ward, Minister of Education at that time, announced he would raise the goal to 50% women in positions of leadership by the year 2000. These intentions were confirmed in memorandum 111 in February 1990 and supplemented by a memo from the Deputy Minister of Education, Robert Mitton, in July 1990.

Then in 1991, the report on the Status of Women and Employment Equity in Ontario School Boards with statistics for the year 1990 was published. It showed that while women were 62% of the successful candidates for principals' qualifications, and 53% of those acquiring supervisory officers' qualifications, women held only 39% of the vice-principalships, 18% of principalships in the public elementary schools and only 14% of the supervisory officers' positions.

Why do we present a history lesson? We have summarized this lengthy process of education, persuasion, encouragement, requirement and data provision by various Ministers of Education to chronicle the laborious and gradually more effective voluntary approach to affirmative action in education for women.

The education systems of this province have been told for two decades that the underrepresentation of women in leadership positions is a matter they should address. During the few years in the mid-1980s when incentive funding was available, the rate of change and the percentage of women in leadership positions increased at the vice-principal level from an average rate of increase of 1.4% from 1980 to 1985 to a rate of 4.1% from 1986 to 1990. This increase meant that there was a cadre of promotable women to move into principalships and that the rate of increase of the percentage representation of women principals has gradually accelerated in recent years.

However, it remains true in 1995 that out of 2,489 principalships in the public elementary system, 1,675 of them or 67.3% are held by men, while women represent 75% of all educators.

During these two decades, our organization has worked with school boards and with our members to encourage and prepare female aspirants and to provide leadership training at the provincial and school board levels. We have produced and distributed a series of booklets on implementing affirmative action and presented them to boards of education. We've advised and assisted school boards on their policies and programs and we've worked in cooperation with the Ministry of Education and Training affirmative action-employment equity contacts in the provincial office and in regional ministry offices.

We want to emphasize that every effort was made to enable the voluntary approach to work and still progress was slow and grudging. The earliest appointees suffered the insults of being accused of being token selections. When the promotion rate of women began to accelerate, we heard the predictable suggestions that the selections were not based on merit.

Nothing is further from the truth. By the time many women were preparing for and applying for vice-principalships, the certification requirement was a two-part course rather than one. The experience and qualification requirements included a minimum of five years of teaching experience and either dual specialist qualifications or a master's degree. Even with these more extensive requirements, women were 66% of those achieving principal qualifications and 53% of successful candidates for supervisory officers' certificates.

These are the employees who have been selected for leadership in our elementary school systems. To suggest that they have not been selected on merit is an expression of stereotype bias and is insulting to all in education.

Further, to include the provision of the Education Act which granted the minister the right to request reports and data from school boards as among those which will be repealed at this time is a proposal which would undermine over two decades of work. Just at the time when school boards should be paying more attention to the equity evidenced in its staffing decisions, this bill would remove the key reporting and information tool which could show progress towards inclusiveness at least for women.

Such action is mean-spirited, shortsighted and unnecessary. Most school boards are quite aware of the distinction between a goal and a quota. Many are anxious to show their communities that they provide an inclusive workplace for their employees in the same manner that they provide inclusive learning places for students. Indeed, several school boards had done surveys, developed programs and established long-term and short-term goals long before there was an Employment Equity Act. Unfortunately, they were far too few.

We urge this committee to ensure that the provisions of the Education Act contained in paragraph 29 of subsection 8(1) and subsection 135(5) be retained and that policy program memoranda 92 and 111 be maintained by the Ministry of Education and Training.

Further, we urge this committee to direct the Minister of Education and training to issue a supplementary memorandum addressing the underrepresentation of racial minorities and aboriginal persons in teaching positions as well as in leadership.

Children have very acute filters which help them determine whether what they hear or experience is truthful or not. In whatever language the Common Curriculum may address and encourage anti-racism and ethnocultural equity, if most racial minority and aboriginal students never meet a teacher, let alone a vice-principal or principal who is of their own race, they have a fairly good idea what the real message is.

The education system has a special obligation to model excellence, inclusiveness and equity, not merely in its curriculum and materials, but also in its staff at every level.

With very few exceptions, most school boards were ready to assess their workforce representation, to consult and work in partnership with their teacher federations and unions and to implement the provisions of the Employment Equity Act. Indeed, some school boards have already indicated an interest in maintaining the cooperative committees and continuing to work on assessing employment policies and procedures to identify barriers and eliminate them. Approximately 60% of the public boards have already carried out extensive educational programs and done their workforce surveys and were already beginning to integrate that information with other employee information to create a statistical picture of their workforce.

Our organization and other teacher federations and unions have spent the past two years preparing and training our members on implementing the Employment Equity Act. Repealing the act and requiring that the information gathered be destroyed, once again in the guise of restoring merit-based employment practices, is an insult to those who have worked so long to eliminate barriers. The goals which were planned were not imposed by any government. They were developed cooperatively among unions, federations and employers. They were reasonable and flexible. If the data are now eliminated it is a shameful waste of the time and money of publicly funded institutions such as school boards.

Our summary of the history of voluntary action on addressing the issue of the underrepresentation of women in educational leadership shows what the equal opportunity approach meant. In 1980, women were two-thirds of the teachers, 15% of vice-principals and only 7% of principals. Even after intervention, persuasion, education and funds provided to the boards of education, 15 years later in 1995 women were three-quarters of the teachers, 52% of the vice-principals and only 33% of the principals. If this slow pace of change continued even with every effort to support and encourage school boards to address gender equity concerns, how much more difficult will it be to address equity for racial minorities, aboriginal persons and persons with disabilities?

The suggestion that the overburdened Human Rights Commission will deal with all complaints about discrimination in employment is indefensible. The dysfunctional state of the Human Rights Commission, the backlog of cases and delays that have resulted from the backlog are evidence that such a route will not provide timely justice to complainants, let alone eliminate discrimination. Further, a complaint-based process is an adversarial one rather than one that is cooperatively developed by employers and employees. It tends to undermine positive attitudes towards diversity rather than enhance them. The committee is urged to consider amendments to the existing Employment Equity Act rather than repealing the act.

We join with many in the communities of Ontario who are shocked at the proposal to repeal the provisions of the Police Services Act which have been in place since 1990. The Ontario public supports the idea of a police force which reflects the community it serves. Both the police

force and educators are among the most influential role models for children outside of their families.

Repealing the provisions of the Police Services Act, which supported outreach recruitment, bridging programs, identification and testing of essential job qualification, anti-racist training and the beginning of the creation of a diversified police force is getting rid of a model that works. Such a decision is not merely unwise political action, it is wilful waste of the dedicated work of many in our police forces who have helped to make change happen.

In conclusion, we join with thousands of Ontario residents in urging this committee to reconsider the message of Bill 8. Its very title is inaccurate, a distortion of employment equity and an insult to those who have obtained positions or promotions in recent months and years who are now being identified as without merit.

We urge its rejection and the development of some reasoned and reasonable amendments to the Employment Equity Act and the retention of other provisions in the Education Act and in the Police Services Act which have shown positive outcomes, not only for employees but also for employers. These publicly funded institutions must continue to model inclusiveness and diversity and they must be seen in doing so.

There are four recommendations:

—Consider amendments to the Employment Equity Act rather than its repeal;

—maintain the employment equity provisions of the Police Services Act;

—maintain the section of the Education Act which granted the minister the power to require boards of education to develop and implement policies on employment equity for women and other groups designated by the minister, to submit the policies to the minister and to implement changes to the policies as directed by the minister;

—retain memoranda 92 and 111 requiring school boards to submit reports annually on the male—female ratios in their workforce and the actions they have taken on employment equity for women.

The Chair: Thank you very much for your presentation. You've used all of the time allotted to you, so no one has a chance to ask you a question. We appreciate your interest in the process. Thank you.

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BREWERY GENERAL AND PROFESSIONAL WORKERS' UNION

The Chair: The next presenter for the committee is Shalom Schacter. You have 20 minutes. How you use it is up to you. You can leave some time at the end for questions, that's your choice. The floor is yours. Thank you very much for attending.

Mr Shalom Schacter: I'm pleased to have the opportunity to make submissions to the committee, and if you could note that I'm here on behalf of my union, the Brewery General and Professional Workers' Union.

I'd like to comment on three elements related to this bill. The first is the mandate of the government, the second is its communication strategy, and the third relates to the job market.

With respect to the mandate, I acknowledge that the government did obtain a mandate from the electorate to repeal Bill 8. However, that mandate was part of a package deal where promises were made that there would be an effective employment equity program implemented, and nothing in the bill provides the other element of the package. Simply giving back to the Human Rights Commission responsibility in this area is not to recognize that it was the inability of the Human Rights Commission to deal with this before employment equity was implemented that led to the need for a special bill.

If I could just take a moment to indicate that the government's mandate to proceed in this way is similar to the government's mandate to proceed with the repeal of Bill 7. It did promise to repeal Bill 7. It said it was going to do that because Bill 40 was a proven job killer, and when the government did repeal Bill 40 it presented no evidence that in fact Bill 40 was a proven job killer. So, again, I say here is another example of the government acting without carrying through its election promises.

I also might indicate that if the government doesn't act quickly to bring in some companion legislation that will deal effectively with achieving employment equity, then Bill 8 is liable to a charter challenge under section 15 because by repealing employment equity the Legislature is engaging in discriminatory action that adversely impacts the very groups that are protected by section 15 of the Canadian Charter of Rights and Freedoms.

I now go on to the communication strategy of the government, and that's in large part found in the title of the bill: An Act to repeal job quotas and to restore merit-based employment practices in Ontario. I won't try and take on the job quota element of the title, because I don't think it's going to be possible to convince you that you're mistaken, but I do think it's worthwhile to make some comments about the other element, the restoration of merit-based employment practices. This implies that before employment equity there were merit-based employment practices and therefore they can be restored. The evidence is quite the contrary, that what we had in employment practices was an old boy network.

Decisions were made by people who are predominantly male and overwhelmingly white and that if we really want to have—and I support the effort to have—merit-based employment practices. If we really want to have that, then we need to have a grievance procedure that will be applicable for decisions on hiring, on promotion and on access to training. We need to have a grievance procedure in an environment where that procedure will be effective. The only way we can have that is in an environment where there are strong unions and, therefore, if you really want to have merit-based employment practices, the government needs to reverse its decision on Bill 7, bring back Bill 40, and in fact strengthen Bill 40 even further.

Finally, with respect to the job market, we can only have merit-based employment practices that are meaningful to people if they are employed. We therefore need to

have a full employment strategy, a full employment goal, one that's going to be achieved. In fact, the steps taken by the government to date in the area of public transit, in the area of non-profit housing, in the area of child care and preschool education, and in the area of the public sector, where you have right now people who are providing important protections to ordinary people in the community, those actions of the government are, in fact, eliminating thousands, if not tens of thousands, of jobs. Clearly, those people are also not going to have merit-based employment practices when they're unemployed.

There is some talk of the government pursuing workfare programs. I want it to be clear that while our object is to have everybody working, if we want to have meritbased employment practices they have to be working at meritorious rates, full labour market rates, not at rates that are going to be below what other people in the workplace are getting for doing the same work.

Our union is asking you to reconsider your entire strategy with Bill 8. In fact, to reconsider the entire strategy that the government has adopted.

The Chair: Thank you, Mr Schacter. We have ample time for questions, approximately five minutes per party, starting with the government.

Mr Flaherty: I was interested in your comment about the charter and how the repeal of legislation can be deemed to be discriminatory. Could you elaborate on that?

Mr Schacter: Certainly. Bill 8 is an act of the government, of the Legislature. As such, it must comply with the Canadian Charter of Rights and Freedoms under section 52, and one of the sections is section 15 which guarantees everybody freedom from discrimination. The Supreme Court has held that the freedom from discrimination that you have is freedom from adverse impact. In other words, even if an entity, including the government, doesn't intend to discriminate, but if the act in fact deprives people of certain rights and treats them worse than others, then the act is contrary to section 15.

The Employment Equity Act specifically gave protection to women and other groups to overcome some of the discrimination that's been built into our society. When we remove that protection from the very groups that are entitled to that protection under section 15, we have a bill that will not stand—may not stand up when it's challenged before the courts.

Mr Flaherty: If you make the assumption that the bill that is being repealed, in fact, is discriminatory, then you'll agree with me that it also would violate section 15 of the charter.

Mr Schacter: In fact, section 15 provides a specific section, 15(2), that allows for affirmative action programs. So, in fact, even if employment equity did discriminate against other people, the act would survive the Constitution. I disagree that the act in fact did discriminate against others.

Mrs Pupatello: Specific to the discussion on this bill—you covered a few in your presentation—would you say then that you would leave the bill as it is and not repeal it at all, or would you recommend particular changes to the bill?

Mr Schacter: A lot of work went into the bill before the previous Legislature, and the final outcome was a compromise. Many equality seeking groups were seeking strong provisions, and I'm satisfied in my mind that those stronger provisions would draw the ire of the present majority in the Legislature. So I think to in fact strengthen employment equity under this Legislature is not realistic, but I'm asking—

Mrs Pupatello: But your opinion is that you would have actually had stronger legislation as opposed to amending?

Mr Schacter: Correct.

Mr Marchese: Mr Schacter, welcome. One of the solutions that this government has towards dealing with discrimination is supporting the Human Rights Commission in some way. That isn't entirely clear in terms of specifics about how they would deal with that, but in some of the comments they made earlier on, prior to the election, they said they were going to redirect \$9 million, they would say, from the commission and apply that to the Human Rights Code.

In a briefing that I have seen around this particular job quota law, there's no reference at all in their notes that they have gotten with respect to money and the Human Rights Commission. So my sense is that that \$9 million that was going to go into human rights has disappeared. There will be no money. So I'm not quite sure what they will do with the Human Rights Commission that will help anybody who might be discriminated on.

Do you have a sense of what it is that they might propose, that they're proposing, that would help to deal with discrimination in any way?

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Mr Schacter: It's clear that simply relying on the Human Rights Commission, as it is, is unsatisfactory. The Human Rights Commission is overburdened with workload. In order to try to put a handle on it, it is rejecting, without investigating, complaints from any worker who is unionized and has an employment-related complaint. To simply put more responsibility on the Human Rights Commission without resources is not going to result in any good for anybody.

It seems to me that one of the messages I hear from the government is that it wants to get government off people's backs, that it wants to empower people in the community to deal with their own problems. That's exactly what the employment equity bill did. It put responsibility for achieving employment equity on the parties in the workplace: employers, together with their employees, and if those employees had chosen to be represented by a union, then the union would speak on behalf of the employees. Only if the parties ran into difficulty and needed to have some outside independent assistance would they turn to the Employment Equity Commission or to the tribunal.

What this government seems to be saying is, "We don't trust the parties to deal with the problem on their own." In fact, if the parties are still committed to pursue employment equity and have collected certain information, they have to destroy that information. I think there's

a lot of inconsistency in the messages this government is putting out.

I would in fact suggest that whether it's going to be the Employment Equity Commission or the Human Rights Commission, the government should restore to the parties, to the workplace, the primary responsibility for dealing with employment equity.

Mr Marchese: The Federation of Women Teachers' Association of Ontario gave an impressive history of how women have been treated in the educational system with respect to positions of responsibility. They outlined over the years how voluntary processes failed, where a number of ministers said, "We encourage the boards." We know that encouraging words and incentives failed for many, many years, and if we leave it to voluntary mechanisms, we're likely never to solve some of the inequities that exist between different people in society.

They've offered a plan. We don't know what this plan is. It's obviously going to be voluntary. They say they're going to achieve some equity for all people through this plan. What's your reaction to that plan?

Mr Schacter: How can I react to the plan when I don't know the details of the plan? I simply pointed out in my presentation that because the government hasn't formalized and concretized its plan and put it into the bill and provided some extra statutory forum for people who have need for protection to turn to, it is running a very significant risk that this bill will be challenged in the courts and will be struck down. That's only going to cost taxpayers money for trying to defend this legislation in court, and then to call back the Legislature to deal with it again. If the government really wanted to try to protect and spend public funds wisely, it wouldn't be setting itself up in this corner.

The Chair: Thank you, Mr Schacter. We appreciate your interest and your time today to make a presentation to us.

ONTARIO FEDERATION OF LABOUR

The Chair: The Ontario Federation of Labour, June Veecock. Welcome. We appreciate your being here to make a presentation to us. You have 20 minutes, and how you choose to use it is at your discretion, leaving some time at the end for questions, or you can use it all for your presentation. The floor is yours.

Ms June Veecock: The Ontario Federation of Labour, representing over 650,000 working people in Ontario, appreciates this opportunity to appear before this committee to present our views on Bill 8, an act to repeal equity in employment for aboriginal people, people with disabilities, members of racial minorities and women. In this submission, we will tell you why we support employment equity; we will give you a sense of how long we have been lobbying for legislation; and, finally, we will respond to your inaccurate characterization of employment equity. Let me say right up front that it is a characterization which we find offensive, to say the very least.

We are fully aware of the strong opposition to legislation to remedy systemic discrimination. Indeed, some of our own members, due to lack of information and the prevailing myths of employment equity, are opposed to legislation to remedy systemic discrimination.

We have observed also that employment equity myths and irresponsible scaremongering are often perpetuated by those who should be better informed. We were dismayed by the tone and misleading information and statements made by your leader during the elections. We hope this process will better inform not only members of this committee but indeed your government.

I want to talk a little about why the Ontario Federation of Labour supports employment equity. There are two very fundamental principles of the labour movement, and these are fair shares and solidarity, but we know that many in our society are denied their fair share. We know also that when workers are divided by race or gender, all workers lose. As representatives of working people, we feel strongly that we have a responsibility not to ignore nor condone the discrimination that some of our members and potential members experience.

We have laws in Ontario to protect people from discrimination, yet some people continue to deny that we live in a society that is racist, sexist, homophobic, and discriminates. Nor is it recognized that we live in a society that places a premium on white skin as well as the male gender. Routinely we make assumptions of others even as we deny them opportunities to demonstrate their competence. We talk about reverse discrimination when there's no evidence to suggest that white males are disadvantaged. As well, references to reverse discrimination ignore nepotism and favouritism. We talk about the lowering of standards, mainly in reference to visible minorities, while we ignore government and other statistics to the contrary.

I want to tell you, members of this committee, that we reject the notion that employment equity is reverse discrimination, and we reject also the notion that standards would have been lowered because of legislation. These assertions often shield racist and sexist views. They fail to take into account employment data available to the contrary.

We support employment equity or legislation to correct systemic discrimination because it's a systemic approach to a systemic problem. A case-by-case approach to discrimination cannot remedy, and will not remedy, systemic discrimination.

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The legislation this government is repealing would have allowed those to whom doors traditionally have been closed to demonstrate their competence. The labour movement in Ontario has a long history of lobbying for legislation for the protection of workers and their families. In reviewing our files and policies for this presentation, we have noted that since the early 1970s several briefs and oral presentations have been made to governments in Ontario regarding improvements to the Human Rights Code and, as well, to the Employment Standards Act. Our support for effective employment equity legislation is part of our tradition of struggle to protect the rights of workers and their families and, generally, the vulnerable in our society.

In 1982, just over a decade ago, delegates to our convention passed a comprehensive policy paper, Women

and Affirmative Action. This paper outlined in detail the historical discrimination against women, discrimination which has kept women out of certain sectors of the labour force and marginalized them in others and trapped them into job ghettos. The plan of action of this policy paper, which I've included at the back of the submission I gave you, included a demand for legislation to end gender segregation in the workplace.

By 1987 we had moved from affirmative action for women only to include aboriginal people, people with disabilities and visible minorities. That year another policy paper, Equal Action in Employment, was endorsed by delegates to our convention. Again we called on the government to introduce legislation to remedy systemic discrimination.

During 1988-89 the OFL and several of our largest affiliates, plus community groups, worked with Bob Rae, at that time the leader of the official opposition, to develop Bill 172, and through an often difficult process, a process where community and labour compromised and negotiated, there was a consensus in the end that Bill 172 would have been an effective piece of legislation to remedy systemic discrimination.

In 1991, again the OFL was one of the first presenters to the consultations held by the Employment Equity Commissioner, and that is the document you have before you. We informed the commission of the work we had done around Bill 172 and indicated that our vision of effective legislation had not changed.

We also worked with our affiliates to build support for employment equity on the shop floor. We organized several employment equity conferences, forums and educationals across the province to explain why legislation was necessary.

We believe strongly that without effective legislation, workers and potential workers will continue to experience racism, sexism and discrimination due to the reluctance of employers to hire from those groups.

I want to talk a little bit about Bill 8. Your characterization in Bill 8 of Bill 79 is offensive, I repeat, and misleading. This bill continues the inaccurate characterization of Bill 79 which began during the election. One would have imagined that we had seen the last of the American style of politics, which can only undermine the harmonious relations which the labour movement and so many community organizations and individuals have worked hard to achieve in this province.

Your Bill 8 gives comfort to those opposed to remedies for systemic discrimination by asserting that merit-based employment practices will be restored. The bill perpetuates the myth that groups targeted for employment equity generally are not qualified and that Bill 79 would have required employers to give preference to less-qualified members of the target groups. Nothing could be farther from the truth.

This wilful distortion of Bill 79 fans the flames of sexism and racism and generally creates a climate that condones discrimination. It is cheap posturing for short-term gain, with apparently no understanding of the long-term consequences of this government's rhetoric and

actions. For all the people of Ontario, it is irresponsible, I repeat, and misleading.

It is time for justice. Equal opportunity is a myth. The evidence is irrefutable: People are not hired solely on the basis of ability; other discriminatory factors, such as gender, race and perceived limitations, are considered.

I'm reminded of a quote by Dr Patricia Williams, an African-American professor at Stanford. She says: "No opportunity is equal. Laws and policies may be genderand color-blind, but people are not."

Study after study has indicated that many in our society are marginalized because of systemic discrimination. It was very interesting that a few days after the Harris government announced its intention to repeal employment equity, the Toronto Star headlined an article, "Minorities Have More Education and Fewer Jobs." I would suggest that the members of this government read that article if you haven't done so.

Now is the time for you to act responsibly. Gender or race, nor a disability, ought not to determine who gets hired. What is at stake through the repeal of employment equity legislation is the right of aboriginal peoples, peoples with disabilities and visible minorities not to be discriminated against in employment. These are rights enshrined in the Charter of Rights and the Ontario Human Rights Code. They must be enforced. Bill 8 not only condones discrimination but will encourage employers to discriminate.

Let me end with what Judge Rosalie Abella had to say during her definitive study on Equity in Employment, as her report is called. Judge Abella said then:

"It is difficult to see how a voluntary approach will substantially improve employment opportunities for women, native people, disabled persons or visible minorities.

"To ensure freedom from discrimination requires government intervention through law. Based on history, present evidence and apprehensions for the future, the elimination of discrimination requires more, rather than less, law."

As well, our experience in the labour movement has shown that trade unions cannot rely on the good-faith efforts of employers, nor governments, to eliminate discriminatory practices without legislative intervention.

I'd like to stop there, and I would be more than happy to answer any questions you might have.

Mrs Pupatello: I have one quick question. In terms of the Bill 79 as it was, would you have left it as it was or would you have added to it?

Ms Veecock: We would have liked Bill 79 to be stronger in terms of enforcement, but we were prepared to live with it.

Mrs Pupatello: Did you perceive that bill as being "quota" at all?

Ms Veecock: Not at all.

Mrs Pupatello: So what parts of it would you have strengthened?

Ms Veecock: We would have strengthened the enforcement in terms of requiring employers to do more.

Instead of encouraging employers to hire fairly from the designated groups, we would have liked to see a stronger enforcement.

Mrs Pupatello: A higher level of fines, you mean, or a quicker time frame?

Ms Veecock: Certainly that too.

Mr Grandmaître: Now that you know that Bill 8 will become law—and I think your appearance today is worthwhile to the opposition, but to the government, I think you're absolutely right: This is a farce, as far as I'm concerned, because this government is determined to go through with the abolishment of Bill 8. What is the next step of the OFL now that this bill will be in place?

Ms Veecock: Our position has not changed and will not change. I talked about the two fundamental principles of the labour movement. We will now be negotiating or trying to negotiate employment equity. We will put it on the bargaining table and leave it on.

Mr Grandmaître: Leave it on.

Ms Veecock: Leave it on the bargaining table. We'll encourage our affiliates to negotiate employment equity.

Mr Marchese: Every time I talk about the fact that this bill is not a quota bill, the members on the other side say: "Yes, but what about the enforcement, the penalty requirement that you have there which says that if their employers are not doing it, they would be fined up to \$50,000? Isn't that a job quota?" I'm not sure how they come to those conclusions, but they refer to it as a way of saying that what we've got here are quotas. I'm assuming that most people you talk to understand this. Is that correct?

Ms Veecock: I certainly don't share that view. My understanding of what a quota is is a fixed amount imposed on the Bill 79 employers who developed a plan of action. They developed how many they would hire over what period of time, and it seems to me there was nothing there saying, "You must." The bill even said, "You make all reasonable efforts to achieve."

Mr Marchese: Yes. It's quite clear to us. On the other hand, I wanted to pick up on a point that you made, because I've seen some studies that show the education levels of people of colour. They're quite high relative to so many other communities. But when you compare the types of jobs that they get, people of colour are usually underrepresented. They either don't get hired or they are underemployed or underutilized and so on. So when we say that, it should give people some kind of hint that there is a problem in terms of our hiring practices, that there is a systemic problem we've got to deal with. Yet even in light of those statistics or those facts, people like members of the opposition here don't quite seem to either understand it or relate to it or reject it, I'm not quite sure, but that's evidence that we have a systemic problem. Could you comment on that from your experience?

Ms Veecock: Let me be very blunt here and say that the myths of employment equity I think are really due in part to particularly white, able-bodied males, to perpetuate the myth of their own superiority. I really do believe

that is where that comes from, and notwithstanding any amount of information, statistics, they feel very firmly that they are better than. So if they are better than, there must be lesser than. They feel, notwithstanding their ability to access jobs by true nepotism, that they really do get those jobs by qualifications, never mind that fair competitions are not held and that a large number of people at times are left out of that pool. So I really do feel that it's really inherent at times, this notion of superiority.

The Chair: Thank you. We now have time for Mr Maves.

Mr Maves: Ms Veecock, I really don't agree with your assertion that everyone thinks we have no discrimination in society, everyone who's opposed to the previous legislation. People don't continue to deny there is discrimination in our society, but people do have different ideas about how to address that discrimination, and I think that difference of opinion should be respected.

I want to continue by saying that we just had a submission from Omnibus Consulting Inc, which said that, clearly, affirmative action programs in the United States have not worked. Following along with that, as you quoted several authors, I'd like to quote an author to you, Mr Allan Bloom. He's an esteemed author and professor. His most notable work was Plato's Republic. In a case study that he did of affirmative action at Cornell University, he had this to say:

"Affirmative action now institutionalizes the worst aspects of separatism. The worst part of all this is that the black students hate its consequences. They believe that everyone doubts their merit, their capacity for equal achievement. Their successes become questionable in their own eyes."

I'll go down to the bottom: "Affirmative action is the source of what I fear is the long-term deterioration of the relations between the races in America."

I didn't get a chance to speak to the submission from the teachers' association. The teachers' association said, on page 16, "In 1980, women were...15% of vice-principals." By a voluntary process, in 1995, they are now 52% of vice-principals. I think that's excellent growth. In light of the comments that I've just mentioned and the other people who have testified, why would we adopt a system that hasn't worked elsewhere?

Ms Veecock: I don't know that affirmative action hasn't worked elsewhere, and I don't know who this person you're quoting is—presumably a white male—but I find it really interesting that white folks now would like—and I'm speaking here of visible minorities and in particular blacks in the United States—to feel somehow that if they got the job through an affirmative action program, that this means ipso facto that they had no ability. I don't know of any affirmative action program that hires without any consideration to qualifications. But this perpetuation that if you had the skills, if you had the ability, you would have been hired, is nonsense.

White males who get their jobs through their fathers and friends and their fathers' friends, they don't feel guilty, but they turn around and make racial minorities feel guilty for getting jobs through an affirmative action program. It's chicanery. You have the ability; they're not giving you the jobs and you implement a program to assist you to get your foot in the door, and then they say you don't have the ability. It's dishonest.

The Chair: Thank you very much, Ms Veecock. Your time is up. We appreciate you coming out and making your presentation.

Mrs Pupatello: On a point of order, Mr Chair: May I make a comment? The statement that Mr Maves used that in fact none of the members of the caucus necessarily feel that there is racism in the repealing of the bill—I just wanted to quote one of your ministers; Cam Jackson said, "Women don't face any problems of access to jobs in Ontario." I just wanted you to see that because I had mentioned it in the House. I just wanted you to know the comments of your own ministers.

The Chair: Just for your information, that wasn't a point of order.

Mrs Pupatello: A point to mention.

PEARSON-SHOYAMA INSTITUTE

The Chair: The next presenter is Andrew Cardozo from the Pearson-Shoyama Institute. Welcome, Mr Cardozo. You have 20 minutes to use as you see fit. For your information, before you begin, your letter requesting reimbursement is being referred to the subcommittee for a decision next week.

Mr Andrew Cardozo: Just on that note, I hope that you will be able to have people from across Ontario participate in these hearings and would offer that privilege to people as people in Toronto have who can travel here free of charge.

Thank you for the opportunity to be able to appear before the committee. I'm a member of the Pearson-Shoyama Institute, which is an non-profit national think tank based in Ottawa. We address issues of how public policy is developed, finding new ways of communication and consultation between the Canadian people and our governments and also issues relating to various aspects of diversity. The institute itself is not an advocacy organization except on issues of a more inclusive approach to policy development. Individual members such as myself routinely put forward our own personal views on various issues of concern based on our concerns and our expertise.

I write opinion pieces for various media as well as research pieces, and I've provided you with a couple of them which provide you with some of my views on employment equity. I will try and be brief because I would like to take some questions.

I'm here to give you my views-

The Chair: Excuse me for a second, Mr Cardozo. I'd appreciate it, while our guests are addressing us, that we pay attention, please.

Mr Cardozo: I'm here to give you my views based on the experience I have with employment equity that dates back 12 years, especially at the federal level. In 1983, I was involved with various others in advocating for employment equity at the federal level. As you will probably know, in 1983 the Liberal government of the time established the Abella commission which conducted

a royal commission on employment equity. Judge Abella reported in October 1984 to the Conservative government of that time. In 1985, Flora MacDonald, who was Minister of Employment and Immigration, introduced the employment equity bill and saw it pass through the federal Parliament in 1986.

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I mention these points just to stress that employment equity is not a partisan issue—it ought not to be a partisan issue. Indeed, people of three of the traditional political parties in this country have addressed employment equity over many years.

Since 1986 I've been involved in various aspects of monitoring employment equity, talking to employers, providing training to employers about how to implement employment equity, and a great deal of it is really trying to clarify people's views about employment equity and put to rest some of the fears that exist.

In my view, employment equity is simply about sharing privilege, and in that I have an article that I passed around to you entitled Employment Equity Cuts up the Cake Fairly, where in a nutshell I talk about when I was a kid growing up in my parents' house, I always got to scoop up the batter when the cake went in the oven because my siblings didn't care for the stuff. When I grew up more and was married and had kids, I suddenly found that my kids liked that batter and I had to share it with them. It was very difficult to share it with them. I was more powerful than them. I still am, but my wife came in as a government and implemented employment equity in how we distribute the batter when the cake goes in the oven. I can tell you the best way to do it is for me to mix the batter and that way my kids and I have about half the batter before the cake ever gets into the oven. But that's another point.

My view about employment equity is simply that it's about bringing fairness, about bringing equality and most of all about bringing merit. I do not believe that merit has existed. We have tried very hard to bring merit. We've gone a long way to doing away with some of the favouritism that has existed in employment practices, especially in government, over a number of years, but we're still far from merit. Today, it's still a matter of who you know rather than what you know.

When I look at employment equity and where it has worked, it has worked at the federal level in many ways. The Employment Equity Act at the federal level isn't all that strong, but I point to you certain areas, especially areas where employers have to rely on merit and merit alone. They cannot employ people who are sons and daughters of people they know.

The areas where it works well are areas of science and high technology. If you look at the figures of Atomic Energy of Canada Ltd, they have among the highest number of visible minorities hired than any other employer. That is because they simply cannot afford to hire a relative or a friend. They have to hire based on merit. When you allow raw merit to work, you will find that minorities and others do very well, and that is how it has worked in the high-tech industry, and it works very well in Atomic Energy of Canada Ltd.

It also works well in the banks. The banks have shown a considerable advancement in employment equity, and that is for the reason simply that they are driven by market forces more than others. They have to have a transparent workforce. When you go into a bank, you know who works for the bank, and they have found that for market reasons equity makes sense. They were implementing equity before the legislation. They have found it helpful since the legislation.

I would say to you as well that taxpayers require good public service. We cannot expect that taxpayers will continue to pay their taxes when the public servants whom they pay do not reflect them and do not respond to their needs. Just as in the 1930s, 1940s and 1950s our public services were largely white and male and at the federal level anglophone, we have changed those because we saw that that kind of public service did not reflect the public.

With regard to the equal opportunity program, I would suggest that it would've been a lot more useful during these hearings to have the government's equal opportunity program outlined before these hearings took place, because if you're going to withdraw one piece of legislation and replace it by something else, it would make these discussions more meaningful if we had knowledge of at least the kinds of directions you were heading in with regard to the equal opportunity program.

In the second article that I've circulated entitled Equal Opportunity Option, I've outlined a few issues that should be clear in an equal opportunity program. To date one hears things like there may be 1-800 line with a recorded message on the other end which will be the equal opportunity program. I certainly hope it's not going to be that. I'm not making this up; I hear this from various sources.

I hope that it'll be comprehensive. I understand—I don't agree with it—that the government is committed to not having legislation, but I hope it will be comprehensive. I hope that will have a policy that is goal oriented. If you don't have a goal-oriented policy, there's really no point in having it. If it's not going to be goal oriented, I would suggest just don't have it.

But if you're going to have an equal opportunity program, some of the issues that need to be addressed by employers are things like how you set job criteria; how you interview people, who's involved in interviewing people; whether you have harassment policies of racial and sexual harassment; requiring or urging, or however you do it, employers to have accessible workplaces for disabled people; and in showing that there is some kind of accreditation of foreign degrees, an issue that has gone on a long time.

I have two final points and they're with regard to the title. First, on the issue of job quotas, I would request that one item be added to Bill 8 and that is the complete outlawing of the quota system that is used in the professions. The professions, especially the medical profession, have a quota system that allows a quota of immigrant doctors to gain access to the medical profession in Canada. If you're serious about abolishing quotas, you must include in Bill 8 a section that will simply abolish and outlaw any quotas used by any

professions. If you're not doing that, what you're doing is to sanction quotas against immigrants but removing any kind of program that seeks equality for minorities and others.

On the name of the bill then, I would suggest to you this is not a quota bill. A previous witness referred to a court challenge. Given that in my view, and I think in the court's view in the end, the employment equity legislation is not a quota bill, if you have an act called "An Act to repeal job quotas," you may not in fact have repealed the Employment Equity Act, so just on that basis you might want to be clearer. But I would say that to use the term "job quotas" is a scare tactic and I would urge that in the interests of integrity of governments that you simply call it what it is, and that is, An Act to repeal employment equity.

On the second part, about merit-based employment practices, I would simply say that rather than "restore," you would call it "advance merit-based employment practices" because we are a long way from merit-based practices and the employment equity bill does not do away with merit; it was only going to advance merit.

The Chair: We have about three minutes per party left for questions. We'll start with the third party. Mr Wood.

Mr Len Wood (Cochrane North): Just on your last comments, you were saying something very similar to what some of the other presenters have mentioned about the title. One of the presenters here this afternoon said even the title is mean-spirited and misleading. On second reading, a lot of people were saying it's a lie and it was used during the campaign and they just put that on the title to make it more scare tactics. I just want to know if you want to comment further on that.

Mr Cardozo: I certainly don't agree with their characterization of "quotas." The difference between a quota and a target or a goal is this: A quota is a top-down quota that is defined in law; it is inflexible and it is blanket; it applies to every single employer. That is a quota. The quota in a law would have said, "Every single employer shall employ X number of women, Y number of minorities" and so forth. A target or a goal is a bottom-up approach, where the employer along with employees develops its own target or goal; it is flexible and it is tailor-made to the individual employer. If the employer is not hiring or it is downsizing during the next year, it simply does not have to employ anybody. That's the difference between a quota and a target.

Mr Marchese: Mr Cardozo, I appreciate reading your articles when they appear in the Toronto Star. That's a comment I wanted to make. I was interested in Mr Maves's remarks and his allusions to Professor Bloom, who says something to the effect of we're institutionalizing segregation—I believe that is what he had said—

Mr Clement: Separatism.

Mr Maves: Separatism.

Mr Marchese: —separatism with the introduction of affirmative action programs, and in addition he adds that affirmative action deteriorates relations between the races, between Americans. I find that an incredible thing for a

professor to say. It has nothing to do with power, nothing to do with privilege, nothing to do with inequities, nothing to do with class; it has a lot to do with the fact that we're introducing affirmative action programs is presumably the claim that this professor makes and Mr Maves probably supports him; I'm not quite sure. But you were here when he made those statements. What are your views on that?

Mr Cardozo: I think it's a matter of opinion. I certainly don't share the opinion of that professor at all. I think that when you look at the various parts of the city, you look at who drives the cabs, you look at who the people are who are in every parking booth across Ontario. In Ottawa, where I come from, it's largely Ethiopians and Somalis. I happened to talk to some of them; they had PhDs and all sorts of degrees. In different cities you get a number of particular visible minority groups in professions like taxi-driving and garage cashiers. That to me is where the separation of races takes place, and employment equity is supposed to say, no, everybody has access to be a taxi driver at low-paid wages, not just the Somali immigrant.

1720

Mr Kells: Mr Cardozo, would you be just kind enough to tell me the annual budget of your organization?

Mr Cardozo: It's about \$100,000 or less. It's been around about a year and a half, so it's hard to give you a firm figure.

Mr Kells: Are you the only employer or are there a number of other ones?

Mr Cardozo: There are various people who are on contract, including myself, depending on particular contracts.

Mr Kells: But the \$100,000 doesn't include contracts, does it?

Mr Cardozo: It's including contract work. We do not get government subsidies, if that's what you're asking.

Mr Kells: Then how do you raise your \$100,000, if

Mr Cardozo: We perform contract work, as consultants do, in various areas such as organizing meetings, providing research-

Mr Kells: So your \$100,000 budget doesn't carry any kind of an annual guarantee; it's predicated on the-

Mr Cardozo: That's right, on the work we do.

Mr Kells: Could you give me just an example of who would give you a contract?

Mr Cardozo: Yes, we're currently doing a contract for the Human Resources Development department of the federal government to provide an assessment of a particular council of the government.

Mr Kells: You don't have to be precise, but roughly, what would that contract be, in what amount?

Mr Cardozo: Just under \$25,000. Could I ask what the relationship is between these questions and the bill we're talking about?

Mr Kells: Outside of idle curiosity, I'm on the committee and we had considerable conversation this morning about your organization. I'm just trying to understand it better.

Mr Cardozo: The contract work we do is very specifically related to those contracts. The rest of the stuff we do is based on voluntary work.

Mr Kells: I don't want to make a false assumption, but would most of the \$100,000 annual budget come from the federal government or governments basically?

Mr Cardozo: At this point, yes.

Mr Kells: Thank you.

Mr Cardozo: It's very specifically related to those particular projects. Where there are other things, we do it on our steam, such as this.

The Chair: Okay, we've got 30 seconds for Mr Clement to ask a short question.

Mr Clement: You said that banks and the AECL are driven by market forces to have a diverse workforce? That's what you said?

Mr Cardozo: I said the banks are—

Mr Clement: And AECL.

Mr Cardozo: I said the AECL, driven by merit.

Mr Clement: Right, because of the market forces that require they have a certain standard. So why would that not work for everybody? Why do we have to have a government impose solutions?

Mr Cardozo: Well, you tell me.

Mr Clement: I don't think there should be one, so I think I know the answer to that.

Mr Cardozo: Well, let me just—

The Chair: The question wasn't quite short enough.

Mr Cardozo: Okay, let me just tell you my view.

Mr Clement: The answer wasn't short enough.

The Chair: Mrs Pupatello.

Mr Marchese: Could you finish answering that?

Mr Cardozo: Very simply, when a corporation—

The Chair: Mr Cardozo.

Mr Cardozo: I'll be as fast as I can, Mr Chair. Very simply, when a corporation-

The Chair: Mr Cardozo.

Mr Cardozo: Sorry?

The Chair: I've recognized Mrs Pupatello.

Mr Cardozo: Okay, sure.

Mr Marchese: Mr Chair, when he asks a question and you don't allow him to finish the answer, it's not very-

The Chair: We have some time constraints.

Mrs Pupatello: I want to just go on record as well: comments from our government members, when they're making them, if they're speaking on behalf of their entire caucus. Quoting Isabel Bassett, your deputy whip, "This leaves affirmative action as the only viable solution to the problem." It goes on to say, "There is a need for something, something much more binding." Just so you know while you're making comments in committee that I still think of members of your government who published these things, self-published in fact, and I wanted to get your comment.

Mr Marchese: Rein her in.

Mr Clement: On a point of order, Mr Chairman: We are individuals in our caucus. People are allowed to have divergent opinions, so don't stuff those words down our throat.

Mr Grandmaître: If you're going to quote somebody, we're allowed to do the same thing.

Mr Marchese: Absolutely.

Interjections.

The Chair: Mrs Pupatello, did you have a question?

Mrs Pupatello: I didn't mean to create such division among their caucus. Excuse me, Mr Chair. Thank you.

The Chair: Any other questions from the opposition? Mr Cardozo, thank you very much for your time. We appreciate the presentation.

Mr Cardozo: Can I answer that question?

The Chair: The time has expired, thank you.

Interjection: I'll wait if you want to let him answer the question.

The Chair: Which question are you trying to answer?

Mr Cardozo: Just the question from Mr Clement.

Mr Marchese: Yes, please go ahead.

Mr Cardozo: I just basically say that the difference is when for a corporation like CHUM Ltd, the number of visible minorities in one particular year was something like 1.5% and a bank is something like 11%, yes, there is a need to push one along; the other one does quite well. For some reasons the first one at 1.5% isn't doing very well.

The Chair: Thank you, Mr Cardozo.

ADVOCATES FOR COMMUNITY BASED TRAINING AND EDUCATION FOR WOMEN

The Chair: Our next presenter is Advocates for Community Based Training and Education for Women, Karen Charnow Lior. Welcome. You have 20 minutes. We're fairly firm on the time. How you use it is at your discretion. We appreciate your attendance and the floor is yours.

I would really like to suggest, though, if we could, that all of us save our little games for when our presenters are not here and allow them the courtesy of listening to them, please. Okay, carry on, please.

Ms Karen Charnow Lior: Good evening. My name is Karen Charnow Lior and I want to thank you and tell you that I appreciate the opportunity to be here. I'm part of the public interest. I'm a woman, part of 52% of the population—losing my eyesight—a parent and a worker. Funny how business is never identified as a special interest. Maybe we should call them a compound interest group.

I'm here as the coordinator of an organization called Advocates for Community Based Training and Education for Women, ACTEW, which is a provincial coalition of over 60 programs involved in women's training and education. The participants in these programs often come from the disadvantaged groups who have been identified as those who will most benefit from employment equity legislation. We see employment equity legislation as

human rights legislation. When those who have been traditionally marginalized or barred from participation stand to advance, then we all, as a society, advance.

Many women, people with disabilities, aboriginal people and racial minorities face discrimination in employment, both in finding appropriate training to access employment and then in finding and retaining meaningful work. The experiences of discrimination go far beyond individual acts of prejudice. They are built into the way the system operates.

Employment equity legislation addresses this built-in or systemic discrimination. It is due to this kind of discrimination that over the years has made it hard for women to enter the workforce, especially into the trades or what used to be called non-traditional work. It is to work to identify and eliminate the barriers women face that organizations like mine exist.

I'm going to give you concrete examples of how women and members of designated groups are disadvantaged in the marketplace. Over the past two years ACTEW has been involved in a study of the situation of clerical workers in Metropolitan Toronto. These workers are the largest occupational group in Metro and they experienced the most severe job loss between 1984 and 1994. Over 80,000 clerical jobs have been lost. The number of clerical workers receiving social assistance has tripled and the majority of them, 73%, are women. Many are men and women of different racial and ethnic origins. Clerical occupations are the largest source of employment for women and salaries in this sector are typically low.

Without legislative mechanisms which ensure career paths and promotions based on length of service, ability and equity, these workers will continue to be disadvantaged in our workforce, people who have skills, ability and the willingness to contribute. Employment equity provided a mechanism for promotion based on qualifications and length of service as well as merit. Employment equity ensures that women, whose incomes are essential to the maintenance of most Canadian households, have equal access to jobs.

1730

ACTEW disagrees with the notion that legislation is cumbersome. Legislation protects all of us. It gives us clear, comprehensive ways to collect and verify information and enshrines a right to appeal, and it makes government accountable to the public, to those who are governed. Contrary to the claims of this government, neither Bill 40 nor Bill 79 created problems in the workplace. Rather, relations in the workplace improved. When people experience fairness they respond in kind; when people experience a lack of fairness they lose hope. This leads to a crisis in legitimacy.

Bill 79 did not demand unrealistic goals and timetables, nor did it put in place an unwieldy and unmanageable quota system. The point of data collection is to identify and explain any underrepresentation of qualified, available candidates from designated groups, then to review these areas for barriers and for employers and employees to work together to plan to eliminate those barriers. Goals and timetables are to be set by employers, not by the law, not imposed by government, and

employers were not subject to fines. They only had to demonstrate reasonable progress towards their own very flexible goals.

I would like to ask why this government is in favour of destroying information. Surely we have too many examples of the destruction of books and records. Why are you sending a message that data collection is to be feared and data destroyed? We're in the information age. We understand the need to protect workers and ensure that information remain confidential, but there must be a way to do this without destroying data that people have worked hard to collect and that help employers create a better workplace environment. How can we accurately determine outcomes—and we all understand how important outcomes are—if we don't have the information?

Ontario workplaces should reflect our population. Employment equity legislation provides one vehicle for ensuring that all qualified workers have equal access to employment, to promotion and to training for employment and is a step to ensuring that all citizens have equal access. This is crucial for children who need role models, for parents trying to foster values of the importance of a good education leading to a decent job, for teachers who, along with parents and public figures, are important models for our children.

I'm referring here to subsections 2(1) and (2), which repeal sections of the Education Act, which empowered the minister to require school boards to prepare employment equity policies regarding women and other designated groups. There are volumes of studies showing that women teachers are an integral factor in girls' achievement educationally, and there are studies proving the importance of teachers who understand their students' background, cultural beliefs, practice, and who represent various groups.

We came here from Israel. My family and I lived in Israel. I was born in the US and my husband was born in Toronto, one of those rare people born in Toronto. My kids are Canadians but they have Hebrew names. My son, Noam, has been called Norm consistently through high school. It's not a hard name to pronounce; teachers say Noah. It's about resistance to the unfamiliar. How many kids suffer and withdraw when teachers can't pronounce their names? What if it's not about a name but about a skin colour or a tradition?

How many children do we lose from the educational system? How many kids do not succeed due to the existence of systemic barriers? And how much do we have to pay later on because of that? What is our loss as a society? Why in 1995, when we hear of nothing else than globalization, can we not apply globalization to the workplace and the classroom? Without measures that allow for affirmative action for women into promotions as principals and other administrative roles, we are back to the 1950s with Donna Reed and Father Knows Best. At my house we watch North of 60, Side Effects and This Hour Has 22 Minutes—Canadian TV. My kids watch the Fresh Prince of Bel Air—okay, it's not Canadian—diversity, role models.

I want to turn briefly to subsection 4(12), which deals with the police services. To date, there is ample evidence

that shows that in cities where the police force is over 20% female, crime is reduced. In areas where the police force reflects the local demographics, crime is reduced. The public supports the notion of a police force which reflects the community. Police are influential role models for our children. We know that in the police force, employment equity has been successful. The elimination of barriers benefits everyone and white men have continued to be hired. According to the 1993 OPP employment equity progress report, "Police standards have not been lowered; in fact, policing standards will be strengthened."

ACTEW understands that the purpose of Bill 8 is to restore merit to the workplace. If we had merit in the workplace we wouldn't have needed employment equity or affirmative action. Facts in the form of studies, polls, documentation, reports and experiences are conclusive. Recruitment for jobs, especially managerial and upperlevel positions, is highly informal. There is a correlation between the use of informal practices by employers and low representation of racial minorities and women. All the studies and reports confirm the existence of systemic discrimination. We do not have, nor have we ever had, a workplace based on merit, unless you really believe that only white men should have jobs.

We have piles of information documenting discriminatory behaviour. People with years of experience and professional training from outside of Ontario face multiple barriers, and we waste valuable resources in duplicating training and education. We have the most highly educated taxi drivers in the world. We also have highly educated people working as cleaning staff in hotels. We have women trained as veterinarians on welfare. We have people trained as doctors, lawyers and accountants unable to find work because the system is against them. It's a terrible waste.

ACTEW supports the work of the Alliance for Employment Equity. Only with effective strategy that includes and involves all citizens will Ontario become economically vibrant and able to compete in a global marketplace. Thank you.

The Chair: Thank you very much. We have about three minutes for each party for questions, starting with the government. Any questions?

Mr Tascona: Just on I think the third page of your brief, you reference there that there's ample evidence with respect to the police forces. What is the source of that evidence? Is that Canadian or American?

Ms Charnow Lior: The OPP quote is from the OPP 1993 progress report, and the other stuff I got from the police, but I don't have the reference. I can get it for you if you want it.

Mr Tascona: So the reference: "To date, there is ample evidence that shows that in cities where the police force is over 20%"—

Ms Charnow Lior: It was from a meeting with representatives from the police services and the firefighters.

Mr Tascona: So you don't have the source today but you can provide that?

Ms Charnow Lior: I don't have it, I'm sorry.

Mr Tascona: Okay, thank you. The other question I have relates to that the Ontario workplaces should reflect our population. I guess there's a difference in the population between Toronto and, say, a community such as Barrie or a smaller community. Do you think what we're dealing with here is a geographically based problem or is it, as you state, a provincial problem?

Ms Charnow Lior: Well, it's probably both, and I think that it doesn't matter, because if you have legislation that ensures that the workplace reflects the community, it doesn't matter what community it is. It reflects whatever the community is.

Mr Tascona: So as long as the workplace is reflective of the community, that should be satisfactory, rather than imposed quotas—

Ms Charnow Lior: There aren't-

Mr Tascona: —where the groups that are sought to be protected aren't reflective of, aren't even in, that community.

Ms Charnow Lior: You know, I want to answer it this way. When we did the organizing for the local labour force development boards we had communities that said, "We don't have any women," so I don't know; I find that hard to believe. They really didn't have any women they could find to sit on a local board? I think that if you have legislation guidelines that say it has to reflect the community, then you work to reflect your community.

Mr Stewart: Just a comment, where you are making the point that if we had merit in the workplace we wouldn't need employment equity or affirmative action: I think that's exactly what we're trying to do.

Ms Charnow Lior: Yes, but affirmative action—are you asking me a question?

Mr Stewart: I just made the comment. If you'd like to make a comment back, that's what the name of the bill is and I think that's what we're trying to achieve.

Ms Charnow Lior: You have legislation—

Mr Len Wood: When are you going to bring in your legislation?

Mr Stewart: I asked the lady a question, sir.

Ms Charnow Lior: I am asking you to have legislation that reflects the needs of the population. If we had had merit in the workplace, we wouldn't have had employment equity or affirmative action to begin with. I cannot believe or accept that people spent 20 years working out policies because we didn't need them.

1740

The Chair: Okay. Thank you. The official opposition. Mr Grandmaître.

Mr Grandmaître: I have a question to the parliamentary assistant.

Mr Clement: For me? Well, I'm honoured.

Mr Grandmaître: I will be referring to the witness's question. This is the third witness, Parliamentary Assistant, who's asking the same question: Why is it that in subsection 1(5) you're asking—or maybe I should read it: "Section 39 of the Employment Equity Act, 1993,

provides that a person in possession of personal information collected from employees shall not be used or disclosed except for the purposes of complying with the act." Then you go on to say subsection (5) of the repeal bill requires employers to destroy all personal information collected.

Why are you asking these people to destroy this personal information?

Mr Clement: Am I permitted to respond, Mr Chair? The Chair: Yes, you are, as I understand it.

Mr Clement: I think the government's intention is based on its analysis of the previous legislation. The view of the government is that the previous legislation is a job quota legislation and it is, by virtue of being an act passed by the Ontario Legislature, a coercive tool used by government to enforce its perception of an equitable workplace on both the public and private sectors.

One of the tools used to enforce that perception is the collection of very, very personal information from individuals who are employees, and, to use the lexicon of the third party that I heard with respect to Bill 7, these employees sometimes find themselves in an inherently disadvantaged situation in terms of the balance of power between employer and employee.

Consequently, if an employer, by virtue of its position, is the agent of coercion for the government, the information that is thereby obtained is deeply personal information which in fact employees may feel they have a right to keep from anyone else in the world: a particular handicap, a particular percentage of their background which is perhaps different, or a different nationality.

So, from our perspective, the collection of that information is unjust and tainted and it would be unjust to allow the employer to keep that information except for the provisions of—

The Chair: The question has been answered. I'm not sure whether the question is too long or the answer, but it did use up more than three minutes.

Mr Clement: Oh, I didn't realize I had a time limit. Sorry, Mr Chair.

The Chair: So we go on to Mr Wood.

Mr Len Wood: A number of presenters have said here that the title of the bill, "to repeal job quotas and to restore merit-based employment"—there were no quotas and there is no merit, so the title of the bill is misleading. People have said it's mean-spirited, it's an outright lie that was used during the campaign to get the 82 members elected and it's continuing on now. If you continue saying it long enough, actually, people might believe it. I just wanted to know what reaction you had to that.

Ms Charnow Lior: What reaction I had to the name of the bill?

Mr Len Wood: Yes.

Ms Charnow Lior: I couldn't put it on my sub-mission.

Mr Len Wood: One of the presenters here is saying that if the title is not changed, it leaves shame on all the members of the Legislature in future years.

Ms Charnow Lior: I wouldn't make statements like

that. I didn't think it was a job quota bill. I couldn't find anything that legislated quotas in the bill and I have answered before that I didn't think that we had 100% merit-based workplaces, or 90% or 70%.

Mr Marchese: There was a submission by the Federation of Women Teachers' Associations of Ontario, where they say that in 1980 women were two thirds of the teachers, 15% of vice-principals and only 7% of principals. Then they say that even after intervention, persuasion, education and funds provided to boards of education, 15 years later, in 1995, women were three quarters of the teachers, 52% of the vice-principals and 33% of the principals.

Mr Maves said, "But we're doing fine." Is that your perception, that if we leave it to voluntary mechanisms, if we leave it to what Mr Stewart was saying, getting back to the merit principle, that everything will be fine? Is that your view of things?

Ms Lior: It's clearly not my view of things. I clearly believe that we need to have intervention. I think that government has a role. I think it's wonderful that 52% of the principals are women; I think it's not enough of the vice-principals. I think it's not enough, that 33%.

Mr Marchese: After 15 years.

Ms Charnow Lior: After 15 years. An additional statistic that's interesting for me is that only 7% of the apprenticed trades have women, and if you take out hairdressers and cooks, it's 4%. Those are jobs. Women could do those jobs, and if we don't have ways to get into the workforce, to get into apprenticeships, we can't do them.

The Chair: Thank you very much for your answers and for your presentation. We appreciate your interest.

COMMITTEE ON THE STATUS OF WOMEN

The Chair: Our last presenter for this evening is Jane Koster from the Toronto Committee on the Status of Women. Jane, welcome to our committee. You have 20 minutes which you can use as you see fit. Any questions you want to accommodate have to be fitted into that time. We're glad you're here. Feel comfortable. The floor's all yours.

Ms Jane Koster: Thank you, Mr Chair. I'll tell you a little bit first about the Committee on the Status of Women. It's a committee made up of women from the community as well as the women members of Toronto city council. We have co-chairs from the community and we work from a feminist perspective to maintain, improve and advocate an equitable quality of life for all women. "All women," of course, includes women of colour, native women, women with disabilities and lesbians living in the city of Toronto.

The committee was formed in June 1991 by then Mayor Art Eggleton as a means for women to have input to the decision-making process at City Hall.

We hold monthly public meetings. Current issues that we've been considering are the impact of funding cuts on women, housing and women, violence against women, sporting opportunities for women—that being women's equitable access to hockey rinks, city recreational facil-

ities etc-and employment equity.

We welcome this opportunity to express our views on the repeal of the provincial Employment Equity Act.

In terms of our recommendations, the committee came in August 1993 when the previous government was hearing submissions around the Employment Equity Act. Our position has changed very little since then regarding the need for legislation to eliminate employment barriers for designated groups in Ontario.

We would like to support the following recommendations:

- 1. We recommend that bargaining agents and employers be obliged to make every effort to ensure broad representation of members of designated groups in a joint process.
- 2. We recommend that the act require the establishment of joint employee-management committees in workplaces where employees are not represented by a bargaining agent.
- 3. We recommend that numerical goals and an employment systems review be required for all employees.
- 4. Seniority rights should be made on a company-wide basis.

We support meaningful legislation that will address the barriers to full labour force participation by women, and that is all women, including white women and women from a racial minority or native background or women with disabilities.

Your timing, from our point of view, to repeal the Employment Equity Act couldn't be worse. Economic restructuring is having a severe impact in all sectors in this province, especially on members of designated groups. The disadvantage that the designated groups already face has increased. Layoffs, downsizing and bankruptcies have created record levels of unemployment. The Employment Equity Act was designed to achieve employment equity rights for women and other designated groups. We believe that the act was good for the province, good for labour, good for employees and, most of all, good for all women.

1750

Despite the public relations work that has been undertaken by government agencies such as the Ontario women's directorate, the native affairs directorate, the Anti-Racism Secretariat, the Office for Disability Issues, as well as other government offices promoting equality rights in employment for members of designated groups, the statistical and anecdotal evidence clearly points to the desperate need for this legislation.

The achievement of employment equity in Ontario is vital. Demographic trends show that members of designated groups will comprise the majority of the Ontario workforce by the year 2000. Data from 1993 show that women in the labour force are playing a game of catchup with men. They have comparable or superior levels of education, but they earn less. They continue to be concentrated in few occupations, and they earn 67 cents, generally, for every dollar earned by a man. Over 80% of women working in Ontario in 1989 were segregated in low-paying occupations in the service sector, that being

services, public administration, trade, finance, transportation and communications. Women working full-time make 53.2% of the average man's salary in that sector.

The most significantly disadvantaged groups from our point of view are those who face double or triple disadvantage, ie, native women, women with disabilities etc. For these women, one of the problems they deal with is biased attitudes as their major barrier to their full participation in the workforce. Racial minority women, while having very high workforce participation rates, continue to earn disproportionately low salaries. In the clerical field, where 30% of racial minority women are employed, even those women with university degrees earn approximately 32% less than men with university degrees. This is despite the fact that these women, that is racial minority women, hold degrees at twice the rate of racial minority men. Publications by the Ontario women's directorate illustrate these and many more inequities.

The act was an investment in the future of Ontario to ensure effective use of the province's diverse labour force. The economic potential for this province would have been tremendous had we begun capitalizing on the human resource potential that is being squandered through ineffective policies, practices and attitudes that are frankly rooted in the past. The act was good for labour because of the emphasis on a cooperative approach to employment equity. In other organizations, where there are adversarial labour relations, employees would have benefited as well.

The previous governments are to be congratulated for introducing requirements and regulations that, despite the cries of quotas and government interference, were realistic and allowed firms to set goals in proportion to the opportunities for change like other business objectives they set on a regular basis.

However, the governments needed to ensure financial resources and implement a major educational venture on the part of the Employment Equity Commission and other government offices to ensure that information was made available to help firms get educated and get started. I understand that the Employment Equity Commission was in the process of working on public education programs like that.

For women, this act had been long awaited. Previous governments acknowledged that women's equality rights in employment were not being met and they chose to back this up with legislation aimed at making systemic changes in how employees are hired and treated on the job.

Women were given the hope that barriers that may have kept them from realizing their full potential would be struck down. Mandatory employment equity legislation is vitally important. It is the only way women's right to equality in employment will be achieved.

In conclusion, I'd like to reiterate the need for mandatory legislation for all employees, workforce data compilation, the strengthening of section 14 of the Ontario Human Rights Code which deals with special employment programs, and resources to monitor and resolve all complaints of discrimination for government as well as

community agencies, eg, Pay Equity Advocacy and Legal Services, which exists in Toronto, which I understand has recently had its funding cut.

The Chair: Thank you very much. You've left about 12 minutes for questions. We will start with the official opposition.

Mr Sergio: Ms Koster, at point 3 of your conclusions you mention to strengthen section 14 of the Ontario Human Rights Code. Can you expand a little bit on that as to the particular reason. Do you have any experience? Do you have any cases that you can mention to the committee here?

Ms Koster: My understanding is that section 14 of the code has to do, as I said, with special employment programs. We would like to see more special employment programs in fact rather than fewer of them.

Mr Sergio: So you're saying it doesn't go far enough. **Ms Koster:** That's correct.

Mrs Pupatello: Given that the bill is going to be repealed and this new one introduced, what recommendations do you have for the Ontario Human Rights Commission to handle all of the complaints that are going to be sent to it?

Ms Koster: Sorry, I missed part of what you said.

Mrs Pupatello: The bill has been repealed, this new one is coming in, and the government members feel that the Ontario Human Rights Commission will be able to handle everything. Do you have any recommendations for them to help them do that?

Ms Koster: Yes. In fact, I know a number of people who have gone through the Human Rights Commission process and also a number of people who have worked at the commission. It's tremendously backlogged. I think that is not a secret to anyone. The staff have very unrealistic workload expectations, and I would assume that if this government is going to use the Human Rights Commission as the means of resolving complaints about discrimination, it had better be prepared to hire a lot more people, for one thing, to deal with these complaints.

Also, I think, to initiate a process which would allow these complaints to be resolved much, much quicker. I believe now the typical amount of time that it takes to resolve a complaint at the OHRC is between two and a half and three years for the average case. That's a very long time.

Mrs Pupatello: When you're in this kind of economic climate where people are fighting just to keep their jobs, what is the likelihood that complaints will come forward from individuals to this commission?

Ms Koster: I think it's pretty unlikely. I certainly don't support that route as an ideal route to deal with discrimination.

The Chair: Any other questions from the official opposition?

Mr Marchese: Ms Koster, just a few remarks. You identified on page 3 some of the inequities that still exist for women that I suspect will continue for some time. You point to some statistical information as it relates to women, people of colour, aboriginal people and people with disabilities.

Ms Koster: Yes.

Mr Marchese: Employment equity was intended to deal with some of those discriminatory conditions that exist in the workplace and attempts to bring about some fairness. Now the opposition says those are job quotas and they also say that once they restore this whole thing, eliminate all that and bring back merit, everybody will be equal and everybody will have opportunities again. I don't want to take Mr Stewart's remarks in vain, but that's what he said. If I'm saying something incorrectly he might correct me, or correct himself if he feels that should be the case.

Mr Maves says, quoting Professor Bloom, that we're institutionalizing separatism and, in addition, affirmative action programs are the cause of deterioration between the races. So you have interesting views that they're expounding on and if Mr Maves doesn't agree with those views, I'd like to hear it—

Mr Maves: Can I have a-

Mr Marchese: —when the opportunity comes around, **Mr** Chair.

Mr Maves: On a point of order, Mr Chair: I think a point of order is allowed when you feel someone's misrepresenting a comment.

Mr Len Wood: No, that's not a point of order.

Mr Maves: A point of privilege? **The Chair:** Point of privilege.

Mr Maves: A point of privilege, Mr Chair: The comments from Mr Bloom were simply that affirmative action programs in the case study, as I had said, at Cornell University hadn't solved the problem of discrimination and in fact had enhanced it. I just want to make sure that Mr Marchese not continue to somehow misrepresent my and Mr Bloom's presentations.

Mr Marchese: Mr Maves has added yet another additional comment which I'll try to record and come back to in the future. As soon as we get around, he might comment on these particular views. So it's interesting views we have here. They're proposing all of these things will be solved once they eliminate the employment equity bill. What is your view of that?

Ms Koster: Clearly, that's not my view of that. When you say Professor Bloom, I assume that you're referring to Allan Bloom, The Closing of the American Mind.

Mr Marchese: That is the man.

Ms Koster: Yes. A very reactionary book which is also a very anti-feminist book, and this is not someone that I would in any way be inclined to agree with.

I would like to say that from our point of view as a feminist group in the community, when it comes to talking about separatism, I think separatism is what we have existing at the moment. When you go into places like corporations, especially, the white males are the people who are separated, because they're the people in the corner offices, and the women of colour are the women typing at the front.

So in fact what we have already is another kind of affirmative action. This is discriminatory and we don't agree with that at all.

1800

The merit principle has never been at work. It's not that the Employment Equity Act under the NDP took the merit principle away but that, from our position, the merit principle was never at work.

The Chair: Mr Wood, a short question.

Mr Len Wood: Okay, very briefly, first of all, congratulations on your presentation. I noticed that you're saying the other legislation was good for the province, was good for labour, good for employers and good for women. Why would the Conservative Party come up with a title where you're talking about quotas and merit when there never were any quotas or merit in the province before?

Ms Koster: Why would they come up with that?

Mr Len Wood: Why would they come up with that title?

Ms Koster: I think it's a political title, in the sense that that's what they happen to believe is the case, that there was merit at the time, and I'm saying that we disagree with that and I disagree with that title. I don't think that's what it's doing, restoring the merit principle. In terms of job quotas, we never had job quotas, and that was very clear that there were never job quotas. There were goals and timetables set by employers.

Mr Len Wood: So it was a big lie. Thank you.

Mr Marchese: So they just don't understand what they're doing.

The Chair: Thank you very much. The government party.

Mr Flaherty: Did I hear you correctly when you said—I thought you said—the merit principle was never at work?

Ms Koster: That's correct.

Mr Flaherty: You're talking about Ontario, the merit principle was never at work in this—here?

Ms Koster: I'm talking about anywhere, not particularly this province. I didn't single this province out.

Mr Len Wood: It was the old boy's club before.

Ms Koster: What I'm—

Mr Flaherty: I take it then that your point of view is that no women in Ontario obtain their positions on merit?

Ms Koster: I think there are women who manage to make it despite the fact that there were a lot of barriers to their employment in the workplace.

Mr Flaherty: Right, well, that's what I'm suggesting to you, that many people, including people within these designated groups of aboriginal peoples, disabled persons, racial minorities and women, did indeed do well on their own merits—

Mr Len Wood: Aboriginal people are 90% unemployed.

The Chair: Order.

Mr Flaherty: —in the province of Ontario, that is, that it's unfair to say, and inaccurate, that the merit principle was never at work.

Mr Marchese: Of course it's not. Mr Flaherty: Don't you agree?

Ms Koster: What I would like to suggest is that there are always exceptions, okay? There are people, and I agree with you, there are aboriginal people in this country who have done very well for themselves and have been able to reach relatively powerful positions. But I'd also like to suggest that that by no means is the majority of aboriginal people in this country or this province. When I leave here tonight and I walk home, I guarantee you that the aboriginal people I see on the street will be people I see begging for money—people who are very down and out—on my way home. They will not be aboriginal people who have made it in the world.

Mr Flaherty: We've heard comments here about—

Mr Clement: That's a stereotype.
Ms Koster: It's not a stereotype.
Mr Clement: You're generalizing.

Ms Koster: I'm stating that this is in fact—

Mr Clement: Sorry.

Mr Flaherty: We've heard this several times. As a former cab driver—

Ms Koster: I'm sorry, I missed that.

Mr Flaherty: I say this on my own: As a former cab driver talking about employment equity—we've heard this reference to cab drivers here tonight.

Ms Koster: I didn't particularly—

Mr Flaherty: No, by several people, and obviously it's a starting position for many people in our society, many people who are born in Canada and elsewhere.

But let me ask you this: Would you agree with me, since you've studied the subject, that regardless of whether one's a member of one of these groups that's designated or not, the primary determinant in Canada today, as it has been in the past, the primary determinant for level of employment, including employability and remuneration, is the level of education attained by the individual?

Ms Koster: No. I think that that's true to a certain extent, but I would have to say that—okay. It's true to a certain extent, but what happens is that what gets lost in that process is talking about who the people are who get screened out before they get to the point of achieving that education. In our educational system, unfortunately, many children with disabilities were sent off to institutions instead of achieving education, instead of being educated, and with women and people of colour and aboriginal

people they were not encouraged in school to the extent that other people were. So what you end up have happening is that people don't go as far in school.

However-

Mr Flaherty: If I were to assume—

Ms Koster: I have to-

The Chair: On that note, can you just wrap it up quickly here because of the time.

Ms Koster: I will wrap up quickly. What I was going to say was that I know, from going in and working in offices, which I have done, that you go in and you discover that the receptionist has her PhD. This is a very strange thing to me. This is something that has happened as a result of this economic climate, for one thing, and she ends up having a lot more, a lot of the time, education than the people who are the directors of agencies. I would say this of the government and of the private sector as well. So I don't think that is the main indicator of level of employment.

The Chair: Thank you very much, Ms Koster. We appreciate you taking the time to make a presentation to us.

Okay, just a couple of items of business. Just for your information, a little bit of good news. Tomorrow night, if you've looked at the list, we have four presenters after 7 o'clock. The presenter at 5 o'clock has cancelled, the presenter at 5:40 has cancelled. We had an hour break in there for dinner. Is it your wish that we ask Tonia to try to move the four people from 7 on up and we just meet continuously and forget about a dinner break?

Interjections: Yes.

The Chair: Okay, the one possibility is that there are three people with whom she's left messages asking them if they wanted to avail themselves of—

Clerk of the Committee: Two or three.

The Chair: Anyway, the wish is we'll work right through if we can reschedule people?

Interjection: Super.

Interjection: What about from 6 to 7?

The Chair: We work right through to 6 to 7, hopefully get finished by 7 o'clock.

Okay, 10 o'clock tomorrow morning the committee reconvenes, and until such time, the committee stands adjourned.

The committee adjourned at 1816.





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Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Kaye, Philip, research officer, Legislative Research Service Campbell, Elaine, research officer, Legislative Research Service

^{*}In attendance / présents







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Comité permanent des affaires gouvernementales

Loi de 1995 abrogeant le contingentement en matière d'emploi

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Friday 17 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Vendredi 17 novembre 1995

The committee met at 1003 in committee room 1.

JOB QUOTAS REPEAL ACT, 1995

LOI DE 1995 ABROGEANT LE CONTINGENTEMENT
EN MATIÈRE D'EMPLOI

Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

The Chair (Mr Jack Carroll): Good morning, everyone. Take your seats so we can be no more than five minutes late getting started.

MIZIWE BIIK ABORIGINAL EMPLOYMENT AND TRAINING

The Chair: Our first presenters this morning are from Miziwe Biik Aboriginal Employment and Training, Kato Badry and Terry Douglas, project officers. Have a place at the table. You have 20 minutes of time allotted to you. You can use that as you see fit. Any time that you want to allow for questions has to be in that 20 minutes. Welcome. We appreciate your attendance and the floor is all yours.

Mr Terry Douglas: I'd like to wish everyone a good morning. As I was introduced, my name is Terry Douglas, and I'm a special projects officer at Miziwe Biik Aboriginal Employment and Training. Part of my portfolio includes employment equity as it applies to aboriginal people, and in the brief amount of time that I have here I'd like to basically give a brief outline as to employment equity from the aboriginal perspective.

First and foremost, employment equity was not about quotas. There's no dignity or respect by being a number. Aboriginal people did not want to be a number, nor do they want to be a number now. Aboriginal people wish to be respected for who we are and what we are. We wish to be recognized for our skills, abilities, experience, knowledge, education and training. In short, we wish to be recognized as equal partners within Canadian society, and that includes equality in the workplace.

The new legislation is being introduced to restore merit, but I don't think that merit was ever disposed of with the old Employment Equity Act. Rather, it was actually removing barriers, which allowed different forms of merit, equally valuable, to be brought forward by different people. With the barriers in place, there were narrow interpretations as to what exactly merit entailed. With such narrow interpretations, a homogenous workforce was created which excluded many people and denied the diversity of people and of the skills they could bring to the workplace.

I believe that at the heart of the matter are actually two misrepresentations. One misrepresentation was of what aboriginal people are and who they are, and the other misrepresentation is as to what a successful candidate should look like and what skills they have.

Psychological tests have actually shown that the perceived appearance of a person affects the judgement of another person. Similarly, a person who has desirable outer qualities characteristic of someone who is goodlooking or whatever the case may be is attributed positive inner qualities. In regarding employment, it follows that if a person fits into the physical picture of what a successful candidate should look like, that person will be attributed positive inner qualities as well even though they don't possess them. Similarly, if a person does not fit the physical picture of what a successful candidate should look like, they will be attributed negative qualities.

As an example, as an aboriginal person, if I went for an interview and the person who was doing the interviewing had negative misperceptions about what aboriginal people are, even though I have two university degrees and some very good experience with what I do, those misperceptions would override either consciously or subconsciously the decisions that person will make. In fact, I might not get the job just based on that.

The Employment Equity Act allowed for the dispelling of these negative misperceptions and allowed for aboriginal people to display their skills, abilities and education. Through the Employment Equity Act, my colleague and I were able to go to employers and present workshops on aboriginal people, culture and issues. What that allowed was a greater understanding of who we are and what we are and the skills we can offer to the workplace. As my colleague will explain shortly, these workshops were well received by the employers. We went out to a number of large companies and organizations to give these presentations.

With the information obtained at these workshops, employers were able to gain an awareness which enabled them to change their old perceptions about aboriginal people and understand the contribution that aboriginal people can make to the workforce. This awareness and understanding of aboriginal people was the first step in filling the void of aboriginal people within the workforce. It also allowed for employers to recognize the valued skills, abilities and experiences that aboriginal people have to offer.

With the dismantling of the Employment Equity Act, the opportunity for educating employers is lost; hence, changing negative perceptions of aboriginal people is lost as well. It is imperative that any new legislation or so forth permit the continuing education of employers on aboriginal people and to implement measures whereby equal opportunity does not continue to be defined by misperceptions of what merit is and by the type of people who possess it. Basically, understanding is more of a goal than anything else at this point in time: understanding who we are, what we are and what we do have to offer, and understanding that merit is not a narrow-minded thing. There are lots of things out there that can be included as merit.

I'd like to hand it over to Kato to continue on. 1010

Ms Kato Badry: Good morning. My name is Kato Badry. I have worked in employment and training over the past two years and have had the opportunity to get involved with employment equity. It hasn't been something that our organization has mandated us to do, but we have taken it on as our own initiative because, myself, in working with employers—we manage an employment agency for native people here in Toronto at no charge, at this point, to any company or corporation. What we found was that we were getting swamped with calls for native people to come in and give a presentation or some cultural training. It was, of course, because people were being legislated under employment equity to put together some type of employment and recruitment plan in the native community.

We found it to be very interesting, though. What happened was we were meeting with all these human resource professionals, and none of them had ever come in contact, face-to-face, one-on-one, with an aboriginal person before, and they had very little knowledge of the diversity even within the native community. We're another culture within a culture. So we found that people were really, really fascinated and interested. I think one thing Canada hasn't provided in our educational system is the true history of our culture and our heritage. We found that this certainly was lacking, and it's been a wonderful opportunity to be able to go into these companies.

We're really pleased to be here today to present to you a snapshot of how much employment equity has truly benefitted the native community and how diversity training can be and has been applied into the workplace.

Ontario certainly has set a precedent for a diverse workforce. I'm from Alberta and I've lived in Ontario for 12 years now. I just came back from Calgary actually yesterday, and once again it brought back the emotions and feelings that I had growing up there in growing up with racism and the unacceptance of aboriginal people.

When I came to Ontario once again I never had to deal with the label of a "native person." People thought I was from some other country, which I thought was just wonderful. Ontario really is a diverse province and it's unfortunate that we have to be sitting here talking about the fact that employment equity needs to be in place, but it's a reality. We have advanced so far in the last couple of years with employment equity that it would be a shame to see what we've built on basically destroyed.

What we found is that there must be a clearly stated commitment from the top, and that means from our government, in order for the principles of employment equity to be passed on throughout an organization from the managers right down.

It is really important to make available cross-cultural training materials for managers to learn about aboriginal culture. I think one thing that we find in recruitment is that what we don't know, we're afraid of. Working especially with native people, sometimes we find that there is that little bit of a reserve because people are unaware of who we are.

The last point I wanted to make was that the integration of aboriginals into the workplace is not an instant transition based on numbers. It is a process that requires a long-term commitment and accountability by the entire organization. It encompasses all facets of the personnel function in an organization, such as recruitment, acquisition, training and development, to ensure that aboriginal employees have access to the same opportunities of advancement as other employees within an organization. This approach is not accommodation. It is a good-practice initiative to overcome previous perceptions that aboriginal employees do not have the knowledge and commitment to progress upwards in an organization.

The growing number of aboriginal graduates from post-secondary institutions across the country in a variety of fields makes that perception obsolete. With proper diversity management and quality control, the transition for aboriginal employees into any organization can be achieved and will enhance the overall competitiveness of the organization.

There's no excuse to avoid change in a period of a changing workforce that has become part of the Canadian reality. It may be necessary to establish a change agent within our organizations with sufficient corporate and government support to make managing a diverse workforce the norm. This is going to be, and it has been, a slow process, but with commitment and accountability we can see this evolution of a diverse workforce come into reality.

We would like to open up for any questions that you may have for us.

The Chair: Beginning with the third party today, so we're fair—that's where we left off last night—we have about two minutes each.

Mr Rosario Marchese (Fort York): There is a great deal of unemployment in the aboriginal community. In fact, the unemployment rate—I'm not sure whether it's 80% or 85%—is quite high. A number of people would say, and I'm not one of those, that it's because of the culture, it's because the community may not want to work. There are a whole series of misrepresentations of why it is that aboriginal people are not employed. We think that keeps a lot of people away from work. They don't have the opportunity therefore to be working. Bill 79 was intended to address some of those inequities. Can you speak to the unemployment rate, to the misrepresentations and, again, why Bill 79 would have worked and why this other equal opportunity plan is not going to be helpful in fact?

Mr Douglas: Bill 79: Once again, I believe the gist of my presentation was that there was an understanding. Many of the aboriginal people I talk to are willing to work, and they do have the skills to work, but unfortunately, especially coming down, say, from a northern reserve which is really remote and perhaps hasn't had the contact with the urban setting until very recently, they come into a situation where there's a total clash between the two cultures.

Many of them get into a position and perhaps get a job, but unfortunately, due to just the business culture and, say, their culture, there are discrepancies there that cannot be reconciled; for instance, for an interview. For most aboriginal people to look someone directly in the eyes is a show of disrespect, so when going for an interview such things like that would interfere with a proper interview taking place. With education of aboriginal culture and so forth, this would be understood by employers and would facilitate a bit more aboriginal people within the workforce. Bill 79, the Employment Equity Act, allowed this education to take place so that these instances could happen.

Mr Bart Maves (Niagara Falls): Mr Douglas, you talked about workshops with private sector companies that you've been conducting to break down barriers and misconceptions. Is your company doing more and more of these?

Mr Douglas: We were doing quite a few of them when the Employment Equity Act was out there. Since, I guess, the new government stated that they were going to repeal the act, a lot of the companies are taking a "Let's wait and see what happens" approach to employment equity. We were doing quite a lot, as I had stated, and the people were more than enthusiastic about participating, because as Kato had mentioned, a lot of them were just simply unaware. With unawareness comes, basically, misrepresentations and so forth. But I would imagine that if there was something there that had some sort of pull towards getting these aboriginal people into the workforce, these workshops would continue, and I believe they would be very well received.

Mr Maves: We had a group, the Omnibus Consulting Co, yesterday that told us that I think 75% of the 200 companies they had talked to were going to continue their initiatives, so I think there might be still some openness to those workshops. They seem to be very valuable. I think that's a great idea and I would encourage you to try to continue those with companies.

Ms Badry: Once again, there has to be a willingness for the company to want to do it. Like you said, there are a lot of people who would like it, but the people who feel they were forced have immediately pulled away. It's certainly something we have seen.

Mrs Sandra Pupatello (Windsor-Sandwich): When you started speaking, you mentioned that there were various forms of merit that should be considered. What were those kinds that would maybe be unique to your group?

Mr Douglas: When I speak of various kinds of merit, this can be a large spectrum, not only towards aboriginal people but all people. For instance, I'll given an example

of, say, a mother who's been at home for so many years looking after children, a budget and so forth. To me, that's perfect time management. I can barely cook for myself, let alone do anything else, and if they can do all that, that's time management and good management skills. However, that would not really be recognized on a résumé by a corporation or an employer. These types of things should be taken into consideration when an employer is looking at a résumé and so forth. That's just a brief example that comes to mind at the moment, but those types of things are alternative types of merit.

Ms Marilyn Churley (Riverdale): That's a great one. Mr Douglas: You like that?

Mr Bernard Grandmaître (Ottawa East): Ms Badry, you said you moved to Ontario 12 years ago. You've lived the merit system, and also the employment equity system since 1993. Can you briefly give me some examples or a simple example of how the introduction of Bill 79 improved your employment opportunities?

Ms Badry: For myself, I have been employed, so I can apply it to our client base. We have brought and incorporated approximately 120 people into entry-level and management positions. We've gotten people into companies where the doors would have never been opened. You know, we've dealt with, and we still are dealing with, all of these companies. They've been working with us really closely.

I guess the thing that we've been finding is that we aren't up to the educational level that's required for a lot of the positions, but we are a training facility or we provide funds for training. Now that we've been working closely with the companies and we know what types of jobs people need to get trained in, that's what we're focusing on so that we can continue a better match.

For instance, some people who have moved from the reserve are now working in banking institutions, having to wear a suit, which has been a major problem for these people, but they've managed to integrate with the support. We're the bridge, I guess, between the corporate culture and the native community. We try and keep that relationship going. But we have placed about 120 people and it's been very successful.

The Chair: Thank you very much. Time for questions has expired. Ms Badry and Mr Douglas, thank you for your interest in our process. We appreciate your being here.

Ms Badry: Thank you very much.

The Chair: The next group is the Ontario Coalition for Better Child Care, Kerry McCuaig. We'll recess for five minutes. The next presenter is not here just now. We'll give them five minutes or so.

Mr Mario Sergio (Yorkview): Will the next one be here?

The Chair: They're not here either, no.

The committee recessed from 1024 to 1037.

The Chair: We're not exactly sure what happened to the Ontario Coalition for Better Child Care, but they have not put in an appearance.

BLACK EDUCATORS' WORKING GROUP

The Chair: Bev Salmon from the Black Educators' Working Group is here just a couple minutes early, so we're going to allow her to get started. You have 20 minutes to use as you see fit. Any part of that that you want to leave for questions is up to you. We welcome you here. I appreciate your interest in our process and the floor is all yours.

Ms Bev Salmon: I submit this brief on behalf of the Black Educators' Working Group. My co-chair, MacArthur Hunter, is a school principal and is unable to join me this morning, but he's certainly available if anyone wishes to contact him on any of the contents the brief.

The members of the Black Educators' Working Group have reviewed Bill 8 with great dismay, as we strongly believe that any attempt to dismantle the Employment Equity Act, 1993, is a serious setback to women, the disabled, racial minorities and aboriginal people, and indeed to all workers in the province of Ontario.

1040

Many major employers in both the private and public sector have embraced the principles of the Employment Equity Act, and in fact some have set the example by implementing employment equity a decade ago: Union Gas, IBM, National Grocers and the corporation of Metropolitan Toronto are examples. Numerous contractors have been covered by employment equity legislation from as far back as the mid-1980s under the Mulroney government, and they continue to be covered to this day.

Employment equity has been embraced as a business imperative in managing diversity. Employers know that broadening their pool of applicants and fostering the abilities of all workers makes good business sense. Active measures outlined in the Employment Equity Act are essential in overcoming the barriers to employment experienced by the target groups. The workplace discrimination they continue to face is a proven fact. The disabled, aboriginal people and racial minorities continue to be underrepresented beyond the entry and service levels of Ontario's workforce.

The Employment Equity Act is the most recent in a series of legislation put in place by governments in Ontario. I'm not going into complete detail. I'll allude to some, but attached appendix 1 goes in greater depth.

In 1944, anti-discrimination legislation was intended to address social inequities. In the 1950s, the Fair Employment Act and the Fair Accommodation Act continued the process. By 1960, the aforementioned proved to be the precursors of the Ontario Human Rights Commission and the enactments governing its existence. As a result of the Fair Employment Practices Act, there was acknowledgement by the Ontario government of the day that employment practices based on merit had been affected by personal and institutional racist attitudes. The Employment Equity Act is an acknowledgement that at times in Ontario, fair employment practice was more of a dream than a reality. We support the Employment Equity Act because it also acknowledges that some of us are limited not because of our abilities but because of other factors.

In 1984, the Royal Commission on Equality in Employment was considered the federal watershed in recognizing that certain sectors of Canadian society have been disadvantaged in employment. Pursuant to this report, the federal government enacted the federal Employment Equity Act, 1986, regulating agencies and those with whom the federal government does business. I repeat: That was under the Mulroney government.

Section 15 of the Canadian Charter of Rights and Freedoms, 1985, sets out the "equality rights" which allow for affirmative action programs. I've gone into greater detail by attaching appendix 2 to this brief.

Shame on the government for perpetuating the fallacy by calling Bill 8 An Act to repeal job quotas and to restore merit-based employment practices in Ontario. Anyone who has read the Employment Equity Act, 1993, knows that this act was never based on quotas. We defy anyone to show us any reference to quotas in that act. Furthermore, it was clearly based on merit-based employment practices. To say otherwise is a deliberate attempt to mislead the general public and thereby gain their support.

The Oxford dictionary defines "goal" as a destination, object of effort; "target" as objective, the minimum results aimed at; "quota" as share that a company is bound to contribute to. Quotas have punitive measures, are inflexible and, once achieved, mark the end of the process. They are open to abuse by encouraging multiple placements, for example, disabled black women. Goals and targets encourage progress towards reaching objectives and are flexible, not punitive.

If merit-based employment practices in Ontario are a goal, then the Employment Equity Act must remain. The government is falsely interpreting the principles of the act, which was carefully crafted to ensure accountability based on measurable goals and targets, not quotas. Merit was the basic tenet of the act, and that is why it was so widely embraced by well-meaning employers.

We are outraged when opponents of the Employment Equity Act perpetuate the myth that due to this legislation, white males cannot get jobs. A cursory observation of both the public and private sector workplace dispels this myth. Where are the targeted groups represented in the workforce, and at what levels?

The truth is that due to this legislation, white males will now have to compete for their jobs along with the disabled and women, racial minorities and aboriginal people. A level playing field is imperative if we are to have an effective workforce in this province. I refer you to statistics that allude to the participation and employment rates, appendix 3, from Employment and Immigration Canada.

The inference that the targeted groups are unqualified is also highly offensive. The committee must be aware of the changing demographics of this province. In 1993, over 70% of Canada's immigrants came from Asia, Africa and the Caribbean while fewer than 18% came from Europe, the traditional source. I refer you to appendix 4. By the year 2001, it is projected that the population of Metro Toronto will be well over 50% racial minority.

Ontario's workforce must be reflective of the population and able to compete in the global economy. This will not be achieved with a passive approach but will require the resolve of our policymakers to lead in a positive direction, harnessing the goodwill that we are convinced exists in this province.

Dismantling employment equity is a complete misread of the commitment and benefits experienced by major employers. A recent survey shows that over 60% of corporations are still strongly committed to employment equity and 55% have publicly expressed that they intend to continue their initiatives should the act be repealed. This will be extremely difficult if the orders outlined in subsections 1(1) through 1(5) of Bill 8, revoking orders and disallowing data collection, are enacted. The directive, especially in 1(5), is malicious, destructive and unnecessary.

The malevolent intent is further manifested in Bill 8 by repealing section 14.1 of the Ontario Human Rights Code, that sets out the components of employment equity plans, that is, allowing positive measures or numerical goals in employment equity plans; by repealing section 24.1, that permits special employment in specific service areas; and repealing section 41.1 orders re employment equity plans that ensure accountability and fairness.

Why would the government propose to repeal those sections of the Education Act and the Police Services Act that permit the establishment and implementation of employment equity plans? Did any consultation take place with these important institutions?

The sanctions outlined for failure to comply with the Police Services Act are in the public interest and most reasonable. Repealing all references to employment equity in the Police Services Act removes the accountability to make their workforce more diverse and undermines the progress made since their employment equity initiatives were put in place following the enactment of Bill 107 in 1990. Why should provisions that were incorporated into the Police Act prior to employment equity legislation be repealed?

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We refer you to the declaration of principles in section 1 of the Police Services Act, which states that "Police services shall be provided throughout Ontario in accordance with the following principles:

- "5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
- "6. The need to ensure that police forces are representative of the communities they serve."

The Employment Equity Act provides the police with the legislative authority to ensure that those principles are carried through.

The Education Act, also enacted in 1990 and through the Ministry of Education's own legislation, requires boards of education, and I refer to paragraph 29, subsection 8(1), "to develop and implement a policy on employment equity for women and other groups designated by the minister, to submit the policy to the minister for approval and to implement changes to the policy as directed by the minister." Subsection 135(5) provides for the provision of affirmative action for women.

Repealing these sections of the Education Act is an affront to the policies of the Ministry of Education and Training which were designed to ensure workplace equity. Ontario's educators must be reflective of our multiracial population. Role models are essential for all students to ensure acceptance of equality and diversity. Studies show that students benefit from a broad exposure to staff of diverse cultural backgrounds, particularly at the administrative level. The Black Educators' Working Group has continuously advocated for the hiring of qualified professionals and the removal of barriers for the advancement of qualified racial minorities within the Ontario educational system.

In conclusion, it is our opinion that the government's actions in putting forward Bill 8 are hastily conceived and based on untruths. Current employment equity legislation is based on merit and on measurable goals and targets and is not based on quotas. It is a step backwards and unwarranted to dismantle this legislation that has been embraced by a very significant portion of Ontario's workforce.

We urge you to reject Bill 8 and to continue the Employment Equity Act for the reasons outlined in this brief. The residents of Ontario must be able to live and work in an environment that recognizes their abilities and is barrier-free. This cannot be left to goodwill but requires a strong legislative framework and committed leadership.

The Chair: Thank you very much. Beginning with the government, we have time for minute-and-a-half questions, one each.

Mr Maves: Ms Salmon, in your second paragraph you talk about companies that have been implementing employment equity for over a decade. Later on you say that 60% of companies are strongly committed to employment equity and are going to continue their efforts. Why then would we need to have the threat of a \$50,000 fine on companies like this?

Ms Salmon: A threat of what kind of a fine?

Mr Maves: A \$50,000 fine.

Ms Salmon: The threat is for not following the process.

Mr Maves: But if they're undertaking these things, so many companies already are doing it voluntarily—

Ms Salmon: We have 40%—

Mr Maves: —and because it makes good business sense, and we've heard this from other groups that have been here about companies feel that it's good business sense and they're instituting these voluntarily—

Ms Salmon: But you're making it extremely difficult for them to do that by saying they have to destroy all materials that have any collection of data. It's extremely difficult for them to proceed with their employment equity plans if Bill 8 is put into effect.

Mr Maves: But over 60% you said are going to continue with their plan to?

Ms Salmon: I said that 60% are strongly committed and over 55%, according to a recent survey, indicated their intention to proceed. We still have 45% of the workforce that would do nothing.

Mr Sergio: Councillor Salmon, welcome and good to see you again. Just a quick question. The proposed Bill 8 calls for a total repeal of the existing legislation. In your view and in your mind, do you think there are enough merits in the existing bill that it should be amended and not repealed totally?

Ms Salmon: If there are amendments that are reasonable, then perhaps that should be the approach to the existing legislation. But I cannot see any merit whatsoever in advocating repealing employment equity legislation that has been so long in coming to this province and that has, as I say, a strong commitment from a very significant percentage of employers.

The Chair: Mr Curling, time for a quick one.

Mr Alvin Curling (Scarborough North): It's good to see you and your input again is quite relevant and very informative. Let's talk about minorities and the qualifications of minorities. Have you any statistics showing the qualifications of minorities coming into the workforce?

Ms Salmon: I don't have those particular studies with me, but we do know that many qualified minorities are kept out of the workforce because their qualifications are not recognized. Perhaps their training has been in another country and there are artificial barriers that prevent them from being able to participate fully in the workforce. A lot of these are discriminatory in nature.

Ms Churley: Thank you very much for your presentation. I am glad that you mentioned the problem with the title because that really is a misrepresentation of what this bill is all about. I wanted you to explore a little further the question of volunteerism. Yesterday, for instance, we had a presentation from the Canadian Manufacturers' Association. Almost everybody agrees that there is a problem. Like the government, these people said, "It should be done by volunteerism and education," and that seems to be what this government wants to do. What is the major problem with that?

Ms Salmon: That does not address the inequities and the discrimination present in the workforce. It also does not put out a framework whereby there will be a goal set that can be achieved. You can't reach that goal unless you know your base, and this is why I strongly object to the bill that would make it almost illegal to collect data on your workforce. There's no way you can measure progress unless you know that base.

I think it's imperative that the legislation stay in place. It was carefully crafted in that it had public hearings and input and has been embraced by a significant number of employers. There is no validation, in my view, to say that it's not working and should be repealed.

The Chair: Thank you very much, Ms Salmon. We appreciate your attendance and we appreciate your presentation.

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UNITED STEELWORKERS OF AMERICA

The Chair: Our next presenters are the United Steelworkers of America. Representing the United Steelworkers of America are Brian Shell, the Canadian counsel, and Michael Lewis, coordinator of political action. Welcome, gentlemen. You have 20 minutes at

your disposal. How you use it is up to you. We appreciate your attendance. Time for questions will be in that 20 minutes, however much you decide. For questions, just so that you can have a heads-up, we'll start with the official opposition the next time around. I appreciate your attendance; the floor is yours.

Mr Brian Shell: Thank you very much, Mr Chairman. My name is Brian Shell; I'm the counsel to the Steelworkers. With me is Mr Michael Lewis of our District 6 office.

The Steelworkers, as many of you may know, represent in the range of 70,000 to 90,000 people in Ontario, in virtually every sector of the Ontario economy, probably in each and every one of your constituencies. Our membership works in steel plants, in mines and offices, in retail stores, everywhere. It comprises a cross-section of the Ontario community. It has a profound interest in the nature of the relationships within the workplace, between workers and their employers, and in the community at large.

We appear here to say to you that this bill, by repealing the Employment Equity Act, creates the very imminent probability of a disaster. There won't be a disaster on the day after you pass it, but within the visible minority, disability and other designated group communities identified, emerging in the workforce there will be such profound disappointment, such a profound sense that nothing is moving anywhere, and that indeed the public statements of the government move us backwards, that we can expect the unpleasantness in the workplace between people who are having difficulty in their workplace relationships to trickle on to the streets of Ontario, into the apartment buildings of Ontario, indeed everywhere.

We saw the Employment Equity Act as a prophylactic, as a way of slowly, within a generation or two, changing the face of Ontario's workplaces and thereby preventing the outbreak of very profound instability. We see this move, the repeal of this act at this time and in this manner, as creating a catastrophe.

We think you should evaluate ever more carefully why you're doing it, what precisely it is about this bill that seems to be of so much concern, what exactly you think this bill means when you speak of quotas, what the word "merit" really masks in the context of workplace decisions and why you want to encourage the dismantling of an apparatus within the workplace that has been created in the wake of the Employment Equity Act, the energy that has been consumed and that has been developed by the trade unions and by employers to uncover what is really occurring, and to deal with it.

There is simply no way, we say to you, that a voluntary response to systemic discrimination will work, can work or will be designed to work. Voluntary measures will not succeed in defeating the plague of systemic discrimination. They just will not, and there is no evidence—no evidence in this country through our federal processes, no evidence in the United States, no evidence anywhere—that voluntary measures work.

That isn't to say that there may not be some enlightened employers who will proceed with a measure

of employment equity, but it won't be a balanced measure and it won't be a measure that places the workplace parties in a position to own and develop and encourage these processes.

We've already heard from our activists. Our activists are already telling us that the climate in the workplace has changed. The designated group members are already feeling vulnerable. They are already experiencing taunts and words that would have been absolutely unheard of as recently as six months ago. There is a sense that it is okay for racism to emerge in an open fashion in Ontario's workplaces, that it is okay for people to say that disabled persons, because they may not be "competitive," can be discarded on the garbage heap outside of the workplace.

So for the Steelworkers, and for our many tens of thousands of members, and for their many more tens of thousands of family members and children, we say you are making an enormous miscalculation. You should send this back for examination and study and you should reconsider what you're doing.

In the absence of any concrete measure seeking to amend and resource the Human Rights Commission to deal with systemic discrimination, in the absence of any such measure, it is hollow and it is indeed dishonest to suggest that systemic discrimination will be dealt with by the Human Rights Code.

Systemic discrimination has been unlawful in Ontario for as long as there has been a Human Rights Code, and we all know, each and every one of us knows that the Human Rights Code and its commission are incapable, on a complaints-based and a complaints-driven system, fully and completely incapable of dealing with these measures. We shouldn't pretend and we shouldn't lie to the people and say to them that it will be dealt with through the Human Rights Commission or that it will be dealt with by voluntary action. It is a mistake, it is dishonest, it is discouraging and it will have profound destabilizing effects on our communities.

Those are our comments. I'd be delighted to hopefully encourage particularly the government members of this committee to ask questions.

The Chair: Thank you very much for your comments. We have about four minutes per party left, so we'll begin with the official opposition.

Mr Sergio: The proposed Bill 8 calls for a total repeal of the existing law. What possible recommendations could you have as amendments to the proposed bill here? Since it seems that, unless there is a total change of heart from the government side, this bill is going to go through, what possible amendment would you recommend that would make the bill more palatable?

Mr Shell: This bill shouldn't pass. This bill repeals the Employment Equity Act.

Mr Sergio: We understand that, sir. As I've said, unless there is a total change of heart from the other side, the bill is going to pass. You know it and I know it. But the fact is, what recommendation, if acceptable at all to the government, could be included that would make the bill more palatable?

Mr Shell: The question, by its construction, strikes me as being incapable of a response. The bill repeals the act.

Mr Sergio: I understand that.

Mr Shell: So the section that repeals the act should be excluded from the bill. Does that help you?

Mr Sergio: I'm with you, sir. Don't get me wrong. 1110

Mr Shell: I'm just saying that is my answer to your question. If you'd like me to give you the section number, I can do so. The section of the bill that repeals the act should be eliminated from the bill.

Mr Sergio: Mr Shell, the bill doesn't call for an amendment; it calls for total repeal.

Mr Shell: Yes, sir. That is correct.

Mr Sergio: Correct? Mr Shell: Right.

Mr Sergio: Now, if that is the case, and the government feels that they're going to go through with it, right or wrong—

Mr Shell: In a democratic society-

Mr Sergio: We have ways to make some amendments if they will be acceptable. What would you recommend, sir?

Mr Shell: That we delete the section that repeals the act. Look, in a democratic society—

Mr Sergio: We will be suggesting that.

Mr Shell: My suggestion is, in a democratic—and I say this not to you, sir, but to the government members of this committee, and I hope through them to the minister, and through the minister to the cabinet, and through the cabinet to the Premier, right? The fact is that you haven't thought about this enough. I know you campaigned on the basis of eliminating "quotas." Well, amend the Employment Equity Act so that it says what you wish it to say, as a matter of public policy, but don't gut all of the processes that are in place, all of the encouragement in the previous act that provided workplace parties with a role to deal with systemic discrimination. That's what you're doing, and this will deliver a message to the workplace parties that systemic discrimination is on.

Mr Sergio: Thank you for answering my question, sir.

Mr Curling: I've really enjoyed your presentation. Would you say that whatever they've put in here and they've called their bill is saying to the people of Ontario: "Let's go back to the status quo. What we had 30 years or so ago is right, all those people who were being denied access to jobs although they are qualified"? Is this what this—I'm scared to call it a bill, myself, and I agree with you. Is this what this is saying?

Mr Shell: This bill is an invitation to continue systemic discriminatory practices.

Mr Curling: I'm at a loss to make any suggestion or amendments to this bill, and I agree with you that the only amendment is to withdraw this nonsensical, really misguided bill that has no sense at all to it. Could you tell me too, on the limited aspect of the review of this, the hearing, would you recommend that this committee go to other areas of Ontario so that other people may educate the government a bit more?

The Chair: Mr Curling, unfortunately your question was too long to allow time for an answer, so we now move to the third party. Mr Marchese?

Mr Curling: He'd like to answer, he said.

The Chair: Oh, I'm sorry: Ms Churley.

Ms Churley: No, if there's time—

Mr Curling: I'm finished with my question. The question is there.

Mr Shell: My answer to the question is that anything that would cause there to be a pause and an evaluation is a good thing. Anything that would cause you to pause, sir—Mr Maves, Mr Hardeman—anything, sir, that would cause you to listen and that would cause you to pause and that would cause you to think about what's going to occur would be a good thing.

Mr Marchese: Welcome, Mr Shell. The government members accept, or at least I think they accept—I've heard a number of them say that there is systemic discrimination. They seem to agree with that. The question is, of course, how you do it. They argue Bill 79 isn't it. They're particularly offended by the \$50,000 fine, particularly offended by "reasonable efforts," which they call quotas. They understand it, but they want to call them quotas. They know what it means. So they have a plan to deal with that: They're going to create fairness for all by eliminating Bill 79. We never had fairness in the past but we're going to get it now because they're in power and they know how to do it.

It was interesting. Mr Maves quoted a Professor Bloom, whom I'm sure you're aware of, who makes a number of interesting opinions on the whole issue of affirmative action and what it does to society, not positively, but negatively. I have to get the quotes from Hansard to get particularly the comments that he made. So I think they're particularly offended by affirmative action programs too, although it would be interesting to see the kinds of questions they might want to ask you.

What is your sense of what Professor Bloom might be advising them of? Do you think he's on the right track to advise this government about how to deal with inequities as they relate to people with disabilities, aboriginal people, people of colour and women?

Mr Shell: Treating people equally is not equal treatment. That's what's significant. Equality isn't about treating people in the same manner. People who are different cannot be treated equally, because it fails to recognize their differences. Those who attack measures that seek to accommodate the differences between people fail to recognize that people, by virtue of their differences, require different treatment.

If we are going to reverse the trend, the culture—the culture of workers, the culture of trade unions, the culture of employers, indeed the way in which we think about each other in our community—if we're going to reverse those trends, we need to have clear, precise, ascertainable mechanisms in the workplace to do that. We need it in

the workplace. That's the core of most people's lives, along with their families. Those who say that Bill 79, the Employment Equity Act, interferes with "merit" simply don't get it. Bill 79 does not say that a person without qualifications should be given a position. It says that persons who are qualified should be given positions: only persons who are qualified.

What it says is that in the distribution of the opportunities among those qualified, we should remedy historic wrongs in order to change the nature of the workplace. The workers who have an enormous amount to risk—white, able-bodied, largely male workers—we welcome this opportunity to change from within.

The Chair: Thank you very much for your answer, sir. For the government, Mr Clement.

Mr Tony Clement (Brampton South): I want to start, Mr Chair, by correcting the record a bit for the purposes of our deliberations. Ms Salmon, in her deputation, mentioned section 14 and seemed to imply that section 14 of the Ontario Human Rights Code was under attack. I wanted to assure her that in fact nothing in this legislation derogates from section 14 under the Ontario Human Rights Code.

Secondly, she made a point about the destruction-of-information section, subsection 1(5), I understand—

Mr Shell: Is this a question for me, sir?

Mr Clement: I will get to you, sir. I will get to you, believe me.

Mr Shell: I'm wondering, Mr Chair—I would really like to help Mr Clement to understand our view. We've come here to express our view.

Mr Clement: Sir, I've listened to you for 20 minutes. Please permit me to speak.

Mr Marchese: On a point of order, Mr Chair: He's addressing—

The Chair: Excuse me.

Mr Marchese: Point of order, Mr Chair: He is speaking to comments made by a previous speaker.

Mr Clement: Which was done all day yesterday, Mr Chair.

Mr Marchese: Perhaps he can reserve those comments for a later time and address this speaker right now.

The Chair: The person who has the floor is allowed to use their time as they see fit.

Mr Clement: I hope that interruption does not derogate from the amount of time I have speaking.

Ms Salmon: Mr Chair, I was here and ready to answer questions—

The Chair: I'm sorry. You've had your time.

Mr Clement: I do want to correct the record, Mr Chair. It's very important that the committee get the proper correction of the record. The destruction-of-information section does not destroy information collected prior to the employment equity legislation; it does not destroy information voluntarily collected after. I want to put that on the record and correct that.

Mr Shell: You know, Mr Chair, you invite the public to come down—right?—and we have to listen to this kind of stuff.

The Chair: Mr Clement has the floor.

Mr Clement: I have a question for Mr Shell, because Mr Shell made a point—

Mr Curling: Point of order.

Mr Clement: Can I ask Mr Shell a question now?

Mr Shell: I'd be grateful to hear-

Mr Curling: On a point of order, Mr Chair: The fact is that Ms Salmon made a presentation and it was, as far as he's concerned, incorrect. She was here for him to rebut. He could have done so. He's used all this time where this gentleman has made his presentation. I think it's unfair and I think that the four minutes should be added back on so we can have an interaction fairly. We were taught in a democracy—

The Chair: People who have the floor have the right to use it as they see fit.

Mr Clement: Mr Shell, I apologize if I am showing you disrespect. That was not my intention. I do have a question for you.

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Mr Shell: The insincerity of that.

Mr Clement: I'm sorry? Mr Shell: I'm listening.

Mr Clement: I do have a question for you related to your presentation. You mentioned that the voluntary measures have not and will not succeed, as I understand it.

We had a presentation yesterday from the Ontario women teachers' federation which I found very interesting. Part of their presentation was a statistical analysis of male-female ratios in upper-echelon positions such as principals. They claim that from 1979-80 to 1994-95 the percentage of principals who are female went from 7% to almost 33%; that was in public elementary schools. In secondary schools it went from 2.9% to 21.4%. Given the fact that we have low rates of retirement in these positions, would you not say that this shows that sometimes, frequently perhaps, voluntary measures do work?

Mr Shell: I would say that it shows there's a been a change in the gender makeup of principals. That's what that shows. The concern that we have and the concern that you ought to have is that two and three more generations of that kind of paced change is simply not going to work for the enormous multicultural and multi-ethnic population in Ontario, and particularly in the south, in that we are going to see this on the street because there is no answer that this government is prepared to provide to the kids, to the teenagers, to those in their twenties who are seeking a fair shake and a fair opportunity and the end of discriminatory practices. We are going to see it on the streets, sir. That's where it will be.

The Chair: Thank you very much, Mr Shell. We appreciate your attendance here today and your presentation

ALLIANCE FOR EMPLOYMENT EQUITY

The Chair: The next presenters are the Alliance for Employment Equity, Margaret Hageman. Margaret has some folks with her: Daina Green, Helen Thundercloud and Tony Ojo-Ade. You folks have 20 minutes to use as

you see fit. Of that, it will be up to you to decide how much the time for questions will be, and the NDP will be the first ones to ask a question. We appreciate your attendance here today. The floor is yours.

Ms Daina Green: Thank you very much, members of the committee. This isn't actually a happy occasion for us to be here to talk about the government's plan to repeal the Employment Equity Act.

I'd like to tell you a bit about who we are. My name is Daina Green. I'm the chair of the Alliance for Employment Equity. We are a coalition of groups and individuals who work towards public education and advocacy on effective human rights policies and procedures in the workplace. We believe that social change and community development go hand in hand, so we bring together people who traditionally have felt quite a lot of discrimination in this society. We bring them together to share experiences and to research solutions on issues of racism, sexism, homophobia and ableism. Some people call us a special-interest group, but we make up 70% of the population of Ontario and we are growing, and this makes us a public interest group, which we'd like to bring to your attention.

I'd like to spend a moment talking about your role as government. The government has gone on record as being here to serve all the people of Ontario, and you are supposedly in favour of policies and legislation that are inclusive. We obviously agree with this goal for government. But what this means is that in order to get to a place where policies and legislation can be inclusive, we have to level the playing field—a common phrase in the 1990s—and overcome the kind of disadvantage that exists for many groups within Ontario.

We think the government has a serious responsibility in terms of human rights to develop and support mechanisms that enforce human rights in the workplace. In our view, the Employment Equity Act is and has been a mechanism to enforce human rights in the workplace in an orderly fashion. Instead of having individuals come forward with their human rights complaints one after another after another, the Employment Equity Act allows employers quite a lot of breathing time to review their policies, find out where the potential human rights violations could be, or discriminatory practices of any sort, and to bring themselves into compliance over a relatively long period of time. That is the Employment Equity Act. That is what we could consider to be a proactive program.

It's our position that there is no Human Rights Commission in the world that could ever cope with the volume of individual complaints that would be needed to change workplace structures in order to completely eliminate discrimination.

The Human Rights Commission obviously has a place and our code has a place, but we would never think of stopping inspection of bridges and just wait for a lawsuit when they collapse. We would always be proactive in our society to make sure that we were not exposing ourselves to large lawsuits and the risk of non-compliance. We know that discrimination exists in Ontario workplaces and that it's quite pervasive.

I'd like to ask Margaret Hageman, the provincial coordinator, to pick up from that point.

Ms Margaret Hageman: We're going to get down to basics. The government says it wants fairness in the workplace. The government does not want quotas or reverse discrimination, you've told us. Since even the moderate voices have alerted you to the ineffectiveness of a passive, equal opportunity approach, let's define what must be done with a simple pop quiz. You can shout true or false to these questions.

Equal opportunity for all people in Ontario is a right: True or false? Is that true? I'll assume that people would say it's true.

Mr Curling: I will say it is true. Mr Sergio: Can we take a vote?

Ms Hageman: We can all shout out. It can be interactive.

Systemic discrimination exists in workplaces in Ontario: True or false?

Mr Curling: That's true.

Ms Hageman: Systemic discrimination must be eliminated: True or false?

Interjections: That's true.

Ms Hageman: True.

Factual, objective data aids in the elimination of systemic discrimination: True or false?

Interjections: True.

Ms Hageman: True. This is a short-answer question, so I'll help you along on this one. List three things you would do to eliminate barriers or unfair practices. I'll give you some examples: eliminate word-of-mouth hiring, build an accessible washroom, provide a job-shadowing or mentoring program.

When can you reasonably have these actions completed? It's multiple choice: one year, three years or nine years? There are no wrong answers to that question.

Mr Morley Kells (Etobicoke-Lakeshore): We can count up to 82.

Ms Hageman: The reason we did this is the point. This is what Bill 79 is, folks. This is the legislation that your Minister of Citizenship called a disaster and that you are repealing under Bill 8. As you can see, it's not such a big deal. It's not a favour, and it's not a special interest.

The government's response to this has been to vilify the recently enacted proactive legislation by labelling it a quota law which works against the merit principle. Let's examine these claims for a moment.

The government considers employment equity to be quota legislation, and thinks that if they say this enough, everyone will believe it. The fact is that this is another red herring designed to make people from designated groups feel like they're getting something undeserved, and to fire up supporters to the moral wrong that reverse discrimination must not be tolerated. The facts, of course, are more complex and less exciting than this myth.

Employment equity is a system of planned change. it relies on empirical data and on reasoned planning. It is

open and accountable. It calls for the participation of management and workers. It respects the individual nature of each workplace and the number of qualified people within its geographical area. It respects seniority and merit. It relies on survey data to identify any underrepresentation of designated groups in each job category so that we know to look for barriers in those areas. It calls on employers to set unique goals and timetables for change, and provides flexibility for any necessary change in the plan. Goals are not imposed, they are determined by employers and, where organized, their employees.

The only yardstick is to show reasonable progress towards these goals. This is hardly a stick that the Employment Equity Commission could use to club employers into submission, as the government would have us believe. How else to measure success except by goals checked against objective data? How else to look at change without actual starting points and a vision of change? It's the same as asking: How else can an auditor evaluate the solvency of a company without seeing the budget?

Let's look at this issue of merit. This bill is to "restore merit" in the workplace. When did we ever enjoy merit as a basis upon which to hire and promote? If merit of all people were taken into consideration in the first place, there would not be any need for employment equity measures. It is precisely because the qualifications, potential, experience and abilities of people from designated groups are too often overlooked or underestimated that employment equity legislation is necessary. Historically, the people who get better jobs in this society are white, able-bodied and male. The old boys' network is alive and well.

The 1985 study by Billingsley and Miczynksi—No Discrimination Here?—shows a correlation between the use of informal practices by employers and low representation of non-white people. Where recruitment companies are used, there's a documented willingness on their part to comply with illegal requests to screen out non-white qualified candidates. In another study, there was a clear preference by employers to offer white candidates jobs over black candidates with exactly the same merit. The point of all these studies confirms the experiences of so many people, that the system which determines valued positions does not allow people from designated groups into the loop. This is systemic discrimination.

It is time to explode the myth of merit—the notion that says those who have the greatest aptitude and skill for performing the task those positions require will in fact get the job. Not only is this myth busted by the reality of systemic discrimination, but it is also time to expose the inappropriate use of the term "merit" as well. Too often, employers hide behind the fuzzy meaning of merit by using these common excuses: "Well, our committee felt more comfortable with this candidate." "We know that he'll fit in really well." "We needed someone with Canadian work experience." "He's the best qualified, went to the right schools, knows the right people, has an impeccable manner." "He's a real team player." "We didn't want to concern ourselves with sexual harassment charges if she had to work late with a colleague."

Those are all the kinds of excuses that people use. It's not merit; it's not a question of merit, it's a question of access.

Employment equity principles compel employers to look at hiring and promotion within a value-neutral assessment. This means open and impartial competitions, where qualifications are job-related and defined in terms of technical skills and competence, where qualifications are measurable and tests are free of cultural and gender bias. We realize that this is often difficult to do, especially in complex jobs such as professional and managerial positions which rely on judgement, discretion, imagination and verbal acuity. We don't believe that these more valued positions should be the exclusive domain of white, able-bodied men through informal systems. They should be open to competition and free of the type of value judgements which are often cited as merit. These systems should be open to scrutiny for gaps in representation and open to barrier identification and elimination, which employment equity compels employers to do.

So this is what we recommend: The withdrawal of Bill 8 completely to restore the public trust in the government's commitment to enforcement of human rights in Ontario's workplaces. We ask for your continued support and enforcement of the Employment Equity Act through a strong commission and tribunal. We need an effective, strengthened and accountable Ontario Human Rights Commission and we would like to see a declaration of a commitment by the government of Ontario to the elimination of unfair barriers to identifiable groups in employment.

Now I'm going to turn it over to Tony Ojo-Ade, who's a board member of ours, for an additional part of our segment.

Mr Tony Ojo-Ade: Good afternoon. My name is Tony Ojo-Ade. Bill 8, to me, is an insult and a setback on employment practices in Ontario to people with disabilities, women, minorities and aboriginal peoples. My question to this government is: Do you believe that discrimination exists? There is no equality in the process of hiring in Ontario. I know, because I can tell you firsthand about my own experience.

I am a black person with a disability and before employment equity when I go out looking for jobs and I happen to have an interview, the employer will spend about 45 minutes talking about my country of origin and my disability instead of spending the time talking about my abilities and my qualification to do the job.

This government should look at the statistics of how many people with disabilities are employed in Ontario—it is on open record—which is not acceptable in a democratic society where everybody shall be treated equally. This government seems to ignore the horrible experiences that people with disabilities and other disadvantaged groups faced in the past.

So like many others of your policies, you always deny facts and continue to turn the clock backwards. The fact is, Bill 8 is a wilful destruction of employment equity and a denial by this government that systemic discrimination is alive and very present in the hiring process and the workplace in Ontario. Bill 8 will not be of any help

to people from the designated groups. The equal opportunity plan did not work in the past and I am sure there is no reason for it to work now.

The Conservative government called Bill 79 a quota bill. That is not true, because there was nothing about quotas mentioned in Bill 79 and, contrary to what this government believes, employers were not asked to hire anybody from the designated groups without the qualification to do the job. What are quotas anyway? To me it's just an arbitrary number an employer will be stuck with.

This government should wake up and realize that the people from the designated groups have suffered enough in the past. People stereotype us in terms of our abilities and qualifications. Bill 8 will not help to dismantle these haunting stereotypes. So where is the equal opportunity for us?

The biggest barrier is not just physical. The number one problem is attitude, the attitude of employers and coworkers towards people from the designated groups. Discriminatory attitudes will only change when people start using objective employment policies.

In conclusion, this government should learn that employment equity makes better business sense and in the long run everybody wins. Bill 8 will not only exclude people from the designated groups, it will make it harder for us to have equal opportunity. While you are busy repealing Bill 79, my advice to you is to think twice about what you are doing to the next generations and to yourselves. Today you are temporary able-bodied people, but tomorrow you or your family member may be in my shoes as a person with disabilities.

Ms Hageman: We just have one more addition to this presentation. Tony Clement had said earlier that the Federation of Women Teachers' Associations of Ontario had a very good presentation yesterday and that he pointed to the wonder of voluntary programs. But I just wanted to point out—I was glad that I was here yesterday—

Mr Clement: I did not say that.

The Chair: Excuse me.

Ms Hageman: I just wanted to point out that in fact parts of the Education Act which allow for what was called affirmative action and negotiated programs, under employment equity as well as a ministerial mandate and several memoranda, were actually responsible for the kind of movement that women teachers have made into leadership positions, and this has been going on for 20 years and it's not over yet. I think that just sort of gives a little bit of an indication of why we need to have proactive measures instituted.

The Chair: Thank you very much. We have an extremely short period of time. We've got a minute per party, so if your question takes a minute there won't be any time for an answer. Mr Marchese, you're first.

Mr Marchese: That was the question, because when they used the voluntary approach, the equal opportunity plan which started in the 1970s, in 1980 women teachers had 15% of vice-principals and only 7% of principals. In spite of the intervention, persuasion and education, in 1995, 52% were vice-principals and 33% of them were principals. The point is, after 20 years of persuasion and

work, nothing much has happened. Imagine what it's like for people with disabilities and people of colour and so on, and aboriginal people.

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Ms Green: It's true. It just points out the need for mandatory employment equity legislation.

The Chair: Okay, from the government side, Mr Clement, one minute.

Mr Clement: Would you not agree with me, though, that there was not mandated employment equity legislation when these statistics were compiled for women teachers?

Ms Green: Excuse me, that program has been in— Interjection.

Mr Clement: He said Mr Clement.

Mr Marchese: Since 1990. Ms Green: Since 1990.

Mr Clement: No, but these figures were from 1979-80 to 1994-95.

Ms Green: That's the point.

Mr Clement: And the number of women teachers in upper-level positions went up by a factor of five under voluntary programs. Would you not agree that is an advertisement for voluntary programs?

Ms Green: No, it's not the mandatory programs that made the change. I actually worked on the report that showed a 1% increase over a one-year period. At that rate, it'll be another 50 years before we achieve equality.

Mr Marchese: You just have to have patience.

Ms Green: Yes, patience.

The Chair: From the opposition, Mr Curling, you've got one minute.

Mr Curling: I just wanted to tell you it was an excellent presentation. I hope they are listening and some sort of movement can be made in understanding what equity is all about.

Interjection: They're going to repeal it.

Ms Green: In our view there's really a lot at stake. There are a lot of people who will suffer if this bill is repealed.

Mr Sergio: Just briefly, and I'm reading from the conclusion here of your presentation, if withdrawal of the bill, as you recommend, will not be possible in your view, can you give us some brief views on how the Human Rights Commission is going to take care of all the problems?

Ms Green: As I said earlier, the Human Rights Commission can never take care of the volume of individual complaints. The Human Rights Commission did have a systemic unit, which is down to about zero, which was looking at some of the root causes for discrimination, and that is where the Alliance for Employment Equity is putting its focus right now.

Mr Sergio: Past experience has—

The Chair: Thank you very much. We appreciate your attendance and your presentation here today.

TORONTO COMMUNITY ACCESS FOR PERSONS WITH DISABILITIES

PUSH CENTRAL REGION

The Chair: The next group is of presenters is the Toronto Community Access for Persons with Disabilities. I believe Andrew Cummings is the presenter, and Andrew is accompanied by Marilyn Ferrel. Welcome to our committee. We appreciate your interest in being here. You have 20 minutes, which we will kind of keep you apprised of, and you can use that as you see fit. Any time you leave for questions in your 20 minutes will be used up starting with the government party. So the floor's all yours.

Mr Andrew Cummings: I'm going to speak first. I'm not going to take up much of your time because everybody who's spoken already has basically said a lot of what I want to say. Marilyn and I have conferred and she has a lot of what I want you all to know. I'm going to make this as basic as possible.

As you know, I work for Toronto Community Access for Persons with Disabilities. When we came up with this name, what we tried to think about was what is our function in the community, what do we do in the community? We are a group that lobbies for access to the community. When we talk about access to the community we talk about access to education; we talk about access to attendant care; we talk about access to employment. That's why we're here today, to talk about what Bill 8 is going to do to the chances of the disadvantaged groups to obtain gainful employment.

I want to talk to you about this notion of quotas. You know, I've been living in Toronto for five years, and ever since I got here I've been hearing: "This company is hiring this person because they've got to fulfil a quota, this person is hiring this person to do a job because they've got to fulfil a quota, and this person has this job, they have this particular disability, but they don't have a job to do that gives them satisfaction because they're just there to fill a quota." I'm a little tired of hearing this, especially since employment equity now is being repealed.

The fact that a person with a disability would want a job that doesn't give him or her any satisfaction is ridiculous. I know that if I want to go and get a job, that job is going to have to be something that I know I am skilled at. It's going to have to be something that I enjoy doing. If I don't have a function in that company, if I'm just going there to sit around, then I don't want that job. But I also don't want a job given to me and being underpaid. If I'm doing a job and I'm skilled at that job, just as skilled as an able-bodied white male, then I deserve the same pay that able-bodied white male would receive if that person were doing the same job.

The way it stood, as I understood it before employment equity was even talked about, if I went in to apply for a job, if that employer knew I was disabled, before I got to the door that employer would be waiting at the door. I've had a couple of experiences like that. I get there and the employer is waiting right there to take me into a room and talk to me about my disability and what the job

entails and going on and on about how I can't do the job because I have a visual impairment.

I went to apply for a job. It was a telephone job; it was simply a job where you pick up the phone. The phone system was controlled by computer. You wear some headphones, you answer the phone, you read whatever is on the screen and you take the messages, type the messages in and send the messages away. I mean, if you're computer literate and you're a quick learner and there's a way to accommodate you or to set up the computer system so that it's operated by voice, what blind person who uses voice can't do that job?

I was told by the employer: "Well, I've tried the voice program before with other people and there are certain things it doesn't read. It reads some things and not other things, so I would have to get the voice to read some things and then someone else would have to do part of the job that's being left behind"—da, da, da, da, da. "I mean, if I'm going to do that, why would I want to hire you? I'd just hire a person who can do the whole job."

So what does that mean? That means I am left out in the cold. Employment equity was a way for me to be protected from that kind of discrimination. It allows the employer the power to choose whether or not I can do the job based on my ability the way he or she sees it. It has nothing to do with whether or not I have the skills. It's a matter of perception and that's basically what discrimination is.

Someone receives messages from a stereotype or they receive information from watching television or wherever they get their information from, and based on what they see of you when you walk in the door, they make their decision, and you know they've made their decision. They spend—like Tony said when he was up here. He said he walked in the door and the person spent like 45 minutes talking to him about his disability. You know right away that they've already made their decision. You know you don't have the job.

Employment equity was to get rid of all of that. Employment equity was to make sure that we were protected against that. It was the one way that we knew we were protected, and that has nothing to do with quotas. That was to ensure that we were able to be on the same equal footing as anybody else who applied for the same job with the same qualifications.

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I want to go back to this concept of access, and the last thing I want to say: Access to the community—again I want to stress this; I can't stress this enough—means that you cannot be denied on the basis of your colour, the basis of your ethnic accent, the basis of your disability, the basis of your gender. The only reason we have four designated groups is because of information received that these are the four groups that are suffering the most from discrimination.

If we're going to get rid of systemic discrimination, first of all we have to admit that it exists, and the government has to admit that it exists, because it is a fact.

The next thing that we have to do is to put measures into place to eliminate that discrimination, and if that

means that we have to make an attempt to correct the problems of the past by saying, "Okay, we're going to make sure that we hire some people from these designated groups to get things up to snuff so that the workplaces are equal," then so be it. That's the way it has to be done, and as has been pointed out, the Human Rights Commission handling individual cases, if that's the way they operate, there's no way they could correct that problem. It would take them centuries.

That's all I have to say.

Ms Marilyn Ferrel: I'm Marilyn Ferrel and I'm from PUSH Central Region.

Many are Qualified: Few are Chosen. The repeal of the Employment Equity Act destroys my hope of being productively employed. If anyone has tried hard to work, I have. I have worked on small government grants off and on for 20 years with no accommodation to my individual needs. Being expected to work as if I were an able-bodied person caused extreme stress and constant pressure. Tension, anxiety and frustration led to insomnia, fatigue and sickness. My husband had to leave because my excessive stress, resulting from my attempts to work in an environment that did not accommodate me, was too much for him.

The Employment Equity Act gave me hope that I could find permanent employment in the private sector. It provided the possibility of accommodating my need for part-time hours, realistic deadlines and a word completion program that would increase my speed and accuracy in typing. I consider myself an intelligent person who struggled hard to get a university degree. I have good marketing and writing skills and I have a reputation for being more focused and concentrated on my work than most people. Andrew will tell you I jump every time he walks in the door, I'm so concentrated.

Why is the Ontario government repealing the one piece of legislation that would enable me to be productively employed? Am I expected to waste my education and qualifications to work because I'm not perceived as the most competitive person for any given type of job?

The government is saying that only those perceived as having merit should have access to employment. Many of us are labelled lazy because we are viewed as not being the most competitive and therefore not given the opportunity to work. Merit is based on fitting into the dominant culture and the ability to network within that culture. Those who have different appearances, who are part of a different culture or who have different ways of doing things are seen to have less merit. Would it be possible for an architect in a wheelchair to be seen as having more merit because his or her design includes all people? Would it be possible for a person who is regarded as slower to be considered to have more merit because they work harder? Merit, like beauty, is based on the bias of the beholder.

All people have a right to work to their full potential. A builder who takes a little longer to build a house than another builder has still produced a house. He or she is still qualified to do the job. What a waste if she or he is not allowed to be employed because he or she is seen as being less competitive than another builder. We label

people lazy and blame them for not fitting into arbitrary standards. Instead, we should question our notions of competitiveness. They are based on false privileges and waste the lives of qualified workers. Ontario should focus on structuring its economy so that all have an equal opportunity to work at jobs that use each worker's full potential. Employment equity is the first step to this restructuring.

The Chair: We have a little bit of time left. Will you entertain some questions?

Ms Ferrel: Yes.

The Chair: We just have two minutes per party, starting with the government party.

Mr Maves: Mr Cummings, one of the problems that you seem to run into seems to be, I think you'd agree, a problem of attitude. I wonder if Bill 79 is the right way to change attitudes, or perhaps might not education, not only through school systems but through outreach programs and workshops like those that the folks from the aboriginal employment training group successfully run to break down barriers, might they not do a better job and a more long-lasting job of changing those types of attitudes?

Mr Cummings: Employment equity is a way to make them recognize that their behaviour is unacceptable. Many people have said to me that you can't change attitudes, but you can certainly change behaviours, and one of the things that employment equity was to do was to make sure that people were penalized for their unacceptable behaviour. Then that penalty for their unacceptable behaviour is bound to make them wonder why the hell they're being penalized, and perhaps maybe then they're going to seek some education on their own.

Mr Maves: Thank you. I think we've had some evidence that some people have begun to do just that, and I hope that continues.

Mr Curling: In response to that, seatbelt legislation was one where we had to change people's attitude really. Today it's illegal not to wear a seatbelt. Funnily enough, that has been one of the most successful laws in the last decade. People today, as you go into your car you put your seatbelt on to save lives.

I want to say to you that it was a very well-presented presentation. You've touched the heart of what employment equity is about. My question to you is, those discriminations that you come across each day, if you had gone through the Human Rights Commission do you feel that your discriminations could have been addressed? I put this question to any one of you.

Ms Ferrel: I don't have the patience to wait five years for my case to be heard. Besides that, by the time it's heard the people in the workplace, particularly in the agencies in the social sector that I have worked with, would have changed. Also, the energy to fight, the energy to wait year after year trying to make them recall that I am waiting, it would be horrific energy and a waste of my time, a waste of the government's time and a waste of the employer's time. I have a right to work, I have a right to accommodation and I have a right to use my abilities. I don't feel that I should be like a criminal and wait for a commission to decide that I'm not.

Mr Marchese: It's always a marvel to me that people with privilege in society and people with power can say to the rest of the others who are not doing so well or don't have the same equal treatment, "Let's be patient and let's use education to get to some equality." It saddens me.

We had Sam Savona come here yesterday. He talked about some of the problems that he faces as a person with disability, where he said for that 10 years he was looking for work and found one day's work. He says that because of the way he looks and because of the way he speaks, he can't open the doors to even be interviewed.

What the members opposite are saying to you—"Just take your time. It will be all right. We'll do education"—that's what we've had for the last 20 years or longer, but they're saying: "Just wait a little longer. education will get you there." What do you think?

Ms Ferrel: I have four years of education. I have a bachelor of social work. It hasn't made much difference to corporations.

Mr Cummings: The point here too is that, like I said before, I work for Toronto Community Access for Persons with Disabilities. Access? We're trying to gain access to the community, and why should we have to wait for that? There is no reason why we should have to wait for that. If we were able-bodied, white males we would not have to wait for access to the community.

The Chair: Thank you very much, Mr Cummings and Ms Ferrel. Your time has expired. We appreciate your interest in our process and your presentation.

That is our last group for this morning. Just a couple of changes on your schedule: The group at 4 o'clock has cancelled and has been replaced by the group at 7:45. The group at 7:30 has moved to 6 o'clock. The group at 7 o'clock has moved to 5. Anyway, we're going to be finished. The last group is going to be at 6 o'clock. The group at 7 has moved to 5 o'clock, so we should have our last presenter at 6 o'clock and be able to get home early this evening. We reconvene at 3 o'clock this afternoon. Enjoy your lunch.

The committee recessed from 1200 to 1514.

ONTARIO WOMEN'S REFERENCE GROUP
ON LABOUR MARKET ISSUES

The Chair: Our first group this afternoon is the Ontario Women's Reference Group on Labour Market Issues, represented by Jane Larimer, Annamaria Menozzi and Joanne Lindsay. Obviously, I missed one.

Ms Jane Larimer: We did. We had a fourth member of our group join us, Eleanor Ross.

The Chair: Welcome. We appreciate your attendance. You have 20 minutes to use as you see fit. Any time you want to allot for questions will be at the end. The time will be allotted evenly between the parties and we would start with the Liberal Party at the end, so the floor is yours.

Ms Larimer: We're submitting a brief to you today. We will be providing a more detailed report shortly—early next week. I'd like to quickly introduce the group we have today. I'm Jane Larimer with the Metro Toronto Movement for Literacy and I'm the Metro representative

to the Ontario Women's Reference Group on Labour Market Issues. Annamaria Menozzi is our representative to the Ontario Training and Adjustment Board. Eleanor Ross, who's happily joining us today, has been our representative to the Workplace Sectoral Program Review Council on OTAB. Joanne Lindsay is our provincial coordinator. Thank you for the opportunity to speak to you today.

By way of introduction to the Ontario Women's Reference Group, we'd like to tell you that we're a reference group for one of the labour market partners within the OTAB structure, the labour market partner group being women representing 51.3% of the population. There are seven labour market partners within the OTAB structure and each one has its own reference group to support the work of the Ontario Training and Adjustment Board and the directors sitting on that board.

Our provincial structure brings together 25 regional representatives from across Ontario. We have representation, both geographically and sectorally, such as agriculture, community-based training, that sort of representation.

Annamaria Menozzi is currently our director and she is accountable to the women of Ontario through the reference group. We provide information and advice to her and assist her in the decision-making process that occurs at the OTAB table and we carry information from OTAB back to the women of Ontario.

We're here today to present the standing committee some of our ideas on Bill 8; specifically, our ideas about the value of employment equity as mandated through the Employment Equity Act.

To start with, we're very much concerned about the language used to describe employment equity. Employment equity does not mean job quotas and I think that's a current myth that we'd like to address. Employment equity does not remove merit as a recruitment criteria. In fact, we believe employment equity will ensure that merit is taken into account.

Without employment equity, it is far too easy for an employer to attach to the merit principle such things as family connections, schooling or work experience. These types of considerations really are not merit attributes; instead, we believe that these considerations ensure that the workforce looks like those who are doing the hiring in many cases. We believe that often these considerations discriminate against those of us who have developed our skills in other schools, other countries and by other means.

We believe that employment equity allows all employers to ensure their hiring and advancement practices are fair to all potential and existing employees. We believe that employment equity ensure that merit is a main consideration when it come to hiring and advancement. We believe that employment equity is a tool for ensuring employment opportunities are open to all people, regardless of their gender, race, ethnic background or ability. Employment equity has led to less gender-based discrimination in the workplace.

We are concerned that repealing the Employment Equity Act will lead employers to abandon their review

of hiring and advancement policies that they have voluntarily set up. As you know, they've set up their own goals for these. This review is meant to remove systemic discrimination against designated groups and to remove practices that have perpetuated the imbalance between representation of designated groups in the community and their representation in the labour market. We're afraid that the repeal of the Employment Equity Act will mean that we will lose some of the gains we've worked very hard to achieve over the past decade.

However, the main focus of the work of the Ontario Women's Reference Group is training, the training and adjustment system in Ontario, and so we would like to make a particular link between employment equity and access to training. We consider training to be a tool for equity as, through training, women and members of other designated groups are able to develop their skills and to learn new ones. These efforts increase the employment and advancement opportunities for members of designated groups.

We believe that when an employer offers training as part of a benefits package for employees, for example, that employer should be required to ensure that all of their employees have equal opportunities to benefit from the training provided. Without employment equity to review training policies of all employers, we're afraid that women and members of other designated groups will be disadvantaged in their pursuit of training opportunities.

In addition, we're concerned that without the protection offered through the Employment Equity Act, complaints about discriminatory hiring and advancement practices will be lost in the already overburdened Human Rights Commission. Furthermore, complaints to the Human Rights Commission are individual complaints, whereas discriminatory employment practices are often systemic, meaning that their discrimination affects more than one person. By individualizing complaints, a necessary result of eliminating the Employment Equity Commission, we fear that women will be discouraged from making complaints about gender-based discrimination. We fear that such complaints about sexual harassment will not be made as women will fear their complaints will jeopardize their access to training opportunities.

We're further concerned about the ability of the Human Rights Commission to handle complaints of a systemic nature as the skills required to handle such complaints are different than those required to handle individual cases. We believe a separate and special system is needed to address systemic problems.

For example, employers need advice on the best practices for removing systemic barriers to their employment opportunities. This kind of advice has not traditionally been the kind an employer will get from the Human Rights Commission, especially during the processing of an individual complaint. The focus is on the individual rather than on the employer and how the employer can learn to improve the system.

This was the kind of advice the Employment Equity Commission was set up to provide. Abolishing the Employment Equity Commission will leave many gaps in the services available to employers, services that will assist them to remove discriminatory hiring and advancement practices, services that will ultimately benefit members of designated groups.

In conclusion, we're here today to urge you to reconsider the direction taken through Bill 8, as it will take Ontario towards retrenchment of discriminatory practices, to further marginalize those members of our community who are already marginalized. We urge you to recommend that Bill 8 be withdrawn from the government's agenda.

Thank you for listening to us today and we'd like to answer any questions you may have of us.

The Chair: Thank you very much for your presentation. We have about four minutes per party beginning with the opposition.

Mr Curling: Thank you for your presentation. Actually, this exercise sometimes frustrates me. I'm not quite sure we're going to make any progress in the sense of changing of the mind of this government.

Let me ask you, were you consulted at all when this new kind of creative bill was brought in, the one-line bill about job quota came in? Were you consulted at all?

Ms Larimer: No, we were not.

Mr Curling: Have you requested in any way to be heard or to see the minister who I—is the minister here? The minister is not here; he's too busy actually to look at this. Have you requested to see the minister at all in this regard?

Ms Annamaria Menozzi: We actually requested to see the candidates prior to the election. We requested to see the leader of the Conservative Party immediately after the election and then we requested to meet with the minister, and we have not received an answer to this date.

Mr Curling: You haven't even received an answer?

Ms Menozzi: Sorry. We received an answer that in essence informed us that they received our invitation, but no meetings were set.

Mr Curling: I know there are concerns that should this section of equity be placed under the Ontario Human Rights Commission this could not be handled properly. It seems to me those are the intentions, in some respect, to put some of that work within the Human Rights Commission. How much money would you say would be needed to sort of bring rather—I don't want to describe the Ontario Human Rights Commission as not doing its job it should be doing because it has inadequate resources. Have you ever taken an assessment of what kind of money should be put in that to bring it up to scratch to deal with systemic discrimination?

Ms Menozzi: Can I clarify, how much money would be needed, are you asking, to train officers under the Human Rights Commission?

Mr Curling: All of that.

Ms Menozzi: We didn't do this kind of calculation. We also were part, though, of the working group on the federal employment equity. We looked at the cost of those kinds of things related to the federal government, because as you know, the same kinds of things are

happening there, in looking at having the Human Rights Commission handle employment equity.

In relation to training, since this is our specialty, we didn't feel that it was going to be terribly expensive training individuals, if there was the willingness to do so, to handle systemic complaints. The question was, is there enough manpower to do so? Are there enough employees under the commissions, both provincially and federally, at this point to be able to do so? Our response was certainly not if we want to provide employers with the kind of information that they need in terms of best practices and so on to be able to successfully remove discriminatory practices in their systems. I don't think that the cost is a major point; it's really the willingness at this point.

The Chair: Mr Sergio, your compatriot used up all too much time, so we'll have to go to the NDP and Ms Churley.

Mr Curling: That's four minutes already?

Ms Churley: I apologize for being late. We have a little employment equity in the House. I'm the one female Deputy Speaker there and I had to take the chair.

I regret personally, as do many people, the title of their bill, the Job Quotas Repeal Act. I know you don't want to alienate the members of this government, because you're here appealing to them on an issue that's very important to you, but I would like to hear your thoughts, and I think it's important for the members of the government to hear your thoughts, on the title of this bill and the fact that this phrase is constantly being used to describe our bill, and to describe employment equity and what effect that's having on the public out there, in general, and what can this government do now to heal that and make people understand that there really is a problem out there that's got to be seriously addressed.

Ms Larimer: As you say, the title is a bit misleading, because employment equity is not about quotas, so we have a sense that we're repealing something that was not there in the first place. Language, of course, is a very powerful tool that works to strengthen this belief that employment equity is about quotas. Rather, it's about goal setting, employers setting their own targets, their own time lines.

Something like this is a bit frustrating, certainly, but again, we're mostly concerned about the impact of such a bill. We have enough work to do dealing with the actual content of the bill, and now we surround it with this additional name that does not accurately describe the work that it's involved in doing.

Mr Marchese: It's interesting, because a lot of people believe that there is systemic discrimination. Of course, we all disagree on how to end it. We introduced Bill 79 because we felt the private sector, in collaboration with unions where there were unions, should work together to remove the barriers and move towards representing the various communities.

It's interesting, when people are in the pulpit of privilege and power, how easy it is for them to say, "We should allow voluntary programs to arrive at equity." I'm always fascinated by that. We know the voluntary pro-

grams haven't worked. What they're proposing through their equity plan is to end discrimination and everybody will be equal, but of course we'll do it voluntarily. What is your response to that?

Ms Menozzi: We don't believe that things will happen if you don't regulate. We do believe that we need regulation and, at the same time, education. Regulation on its own will alienate people, so regulation and education are what needs to happen. Regulation and support of people who are then requested to fulfil their obligation through legislation need to go hand in hand.

We are concerned with not having those things regulated as much as we are concerned at not having people understanding what they really have to do and not having the kinds of education systems in place, which we didn't have. We didn't have it federally; we have not had much provincially. Those are two things that must go hand in hand to ensure that people do fulfil their obligations that are set out through the law. So we like, and we strongly support, the regulation of systemic discrimination removal and to see the support system in place.

Mr Clement: You just touched on education and you also said that training is a tool for equity and you also said that employers need advice for best practices. Can you not envisage government working with business to pursue those goals outside the context of legislation? Isn't it possible for government to work with business and employees outside a coercive piece of legislation?

Ms Eleanor Ross: I've worked in a workplace for many years where we did try voluntary measures, and it was very, very slow. As much as we'd like to say yes, some employers would be interested in working voluntarily to help put measures in place, many, many really aren't interested. We get back to this whole issue of trying to help employers to make the change and to prohibit systemic discrimination, and many of them don't understand what that is and are not able to pursue that. I believe regulations are important in order to ensure that.

I want to go back to the question around the Human Rights Commission. I think employers want to solve the discriminatory problems in their own workplace, and they don't want their employees running off to the Human Rights Commission. I think citizens of Ontario don't want to keep funding the commission to do more and more work, whereas it could be handled in the workplace. The commission is set up to do that for all citizens, not just workers, and surely if we had this in workplaces then it would be much more effective.

Mr Tascona: In your brief there is an acknowledgement that the Human Rights Code does deal with systemic discrimination. What in particular is the problem with the Human Rights Code in dealing with that?

Ms Larimer: I believe we're saying that we see that as the body that would take on discrimination cases. I'm not sure that they're currently set up to do that.

Mr Tascona: But you do agree that systemic discrimination is dealt with under the Human Rights Code?

Ms Larimer: It is, but again, the capacity of the commission to deal effectively with that I think is tremendously limited.

Mr Tascona: In what way?

Ms Larimer: Its focus is on individual cases that are brought before it, not towards systemic cases—in that manner. We're looking at working with a very large sector, with business, which is tremendously large—and we'd like to see it get larger, of course, that there are more businesses—but if you start to pile this on the Human Rights Commission, it's going to slow down the work there and people will become very frustrated. I'm sure employers, and individuals as well, who will bring cases before the commission will have to wait years and years to see matters settled. Coming from a small business situation myself, once an employee has filed a complaint, we want to see these things move quickly. We don't want to see them languishing in the commission for years and years.

Mr Tascona: Do you not agree that through voluntary action there have been gains by women in terms of increasing their representation in fields such as education? I understand from the teachers' federation that in 1988 15% were vice-principals and only 7% were principals, and now in 1995 52% are vice-principals and 33% are principals. Would you not agree that's a significant gain?

Ms Larimer: Certainly there are areas where there have been gains. However, there are also areas where there have been no gains, such as apprenticeship, and this is an area that we address quite frequently. We hear that it's very fine for women to become hairdressing apprentices, but the construction industry, for example, is very, very reluctant to have women move into that field, the electricians' field. Many of the trades are still very much closed to women, and we feel the only way we'll really be able to move into those areas—and for women, single-support mothers, for example, to be able to earn a decent living to support their children and their families, they need to be able to move into areas like that. They're certainly capable of it.

Mr Tascona: Yes. So you agree that-

The Chair: Thank you very much. Time for questions is up. We appreciate your taking the interest, the time, to come and make your presentation to us.

COLLEGE COMMITTEE ON EQUITY IN EDUCATION AND EMPLOYMENT

The Chair: The next group is the College Committee on Equity in Education and Employment, Susie Vallance-Macias and John MacBride. Welcome to our committee. You have 20 minutes to use as you see fit. The floor is yours. The questions this time will start with the third party.

Ms Susie Vallance-Macias: As indicated, my name is Susie Vallance-Macias, and I'm the provincial chair of the College Committee on Equity in Education and Employment. This committee is a subcommittee of the Human Resources Coordinating Committee, which is a coordinating committee of the Association of Community Colleges of Applied Arts and Technology. My role here is to represent the 25 equity practitioners within the community colleges in the province of Ontario. We've asked to present to this committee in order to ensure that the needs of the community colleges are heard and recognized as the government moves forward with its

plans to repeal the Employment Equity Act and replace it with a workplace equal opportunity plan.

It is not our intent to engage in debate regarding whether or not the Employment Equity Act should be repealed, is a quota-based system or to discuss its effectiveness. I understand there will be other, and I've just heard that there are other, submissions that adequately address these and other issues. Rather, it is our hope that our efforts today will assist the government in finding the best way to allow community colleges in Ontario to move forward on their long-standing history of dealing proactively with human rights and equity issues.

There are primarily three issues which therefore I would like to raise with the honourable members: The first is the consequences of destroying data and other information collected under the Employment Equity Act; the second is the necessary expansion of the Ontario Human Rights Commission in dealing with human rights complaints of systemic discrimination; and third is the need for an effective and substantive workplace equal opportunity plan in the college system.

As early as 1975, the college system recognized the critical importance of employment equity initiatives, previously known as affirmative action and equal opportunity programs, in the educational sector. Faculty, staff and administrators serve as role models for our community, and it is imperative that we be as reflective as possible of the communities we serve. If students do not see themselves reflected in the educational workforce, they may not believe it possible that they themselves can achieve equal opportunity.

In recognition of this need, the college sector has taken a leadership role in the development of equity initiatives. In addition to the evolution of policy, these initiatives have included studies on the status of women in the college system; special programs to assist the disadvantaged in overcoming obstacles; the review of job descriptions and classification systems to remove systemic barriers in the workplace; education and training in antiharassment and discrimination; and the allocation of adequate resources and staff to deal with equity concerns.

I'm pleased to provide examples of actual projects and/or policy development and/or success stories, as few as they may be, that have stemmed from these initiatives. Over the years, these activities have had a profound impact on our educational environments.

The Employment Equity Act provided colleges with an additional tool for advancing equity within the college system. Even without the act, many colleges invested valuable time and resources in making the workplace fair and equitable for everyone. While the repeal of the act does not mean that colleges will be unable to continue their efforts, the requirement to destroy information collected under the act warrants special mention.

The Employment Equity Act created significant costs for employers in the collection and maintenance of employee data. It's important to note that many colleges had previously collected employee data; in fact, through the late 1970s, throughout all of the 1980s and the early 1990s. We recognized that cost and were willing to initiate and spend it.

However, the requirement to destroy the data that you're now asking us presents an additional cost. In addition, this requirement will set back many of our institutions by damaging productive relationships with our employees who have participated in these initiatives with the expectation that they will make the workplace more equitable and fair.

In many colleges, initial analysis of the data suggests that we are quite representative of our communities. This information has been able to demonstrate to other institutions that successful policies and programs can ensure that workplaces can be reflective of our communities. It is also critical in helping us assess where the systemic barriers in our employment policies and practices might be.

One of the standard criteria of any employment system review has been adverse impact; that is, whether a policy or practice has a greater and negative impact on a particular group of employees. In the absence of statistical data, employers will be unable to ascertain where their policies are having an adverse impact on employees. For many colleges, the data collected under the act not only included designated group representation, but also included employees' thoughts and perceptions regarding where barriers to a fair and equitable workplace existed. 1540

It's important to note that the data and information that we collected under the repeal bill are stating that everything under part III of the Employment Equity Act or Bill 79—that included information regarding employment systems, employee consultations and others. It is not just designated representation, which seems to be misrepresented out there. We again can provide you with our concerns about the elimination or the destruction of that data in real terms.

When one considers that the government's new workplace equal opportunity plan is intended to include a review of employment policies and practices to identify systemic barriers, to ask colleges to destroy this information would seem to conflict with the government's own proposed strategies.

In addition, without statistical data, the colleges may be unable to defend themselves against a systemic discrimination complaint filed under section 11 of the Ontario Human Rights Code. When colleges have allegations of unfair bias or discriminatory hiring practices, one of the defences expected is to demonstrate through quantitative data that other members of protected groups or other people of those protected groups named have been successful in obtaining and maintaining employment. The data are one way to ensure that an employer can meet their responsibilities under the code in attaining a workplace free of discriminatory barriers.

If this government is determined to create a workplace environment that establishes equal opportunity and ensures that hiring, promotion and treatment are based on merit alone, then clearly reforms and support to the Ontario Human Rights Commission are necessary. Our current systems in Ontario address violations after the fact and, in many cases, with months and years of delay. Again, it's a complaint-driven system, so the individual

must be the one who has to demonstrate or go through the process of being a complainant in a very long and, in many ways, very difficult process.

In order to create an equal opportunity environment, additional resources and support to the commission are critical; in particular, support for the development of proactive training and consulting services for the public and private sector. In our case, if resources are unavailable through the commission, there must at least be adequate funding for training through the Minister of Education and Training.

Our experience in the college system confirms that training is critical to the colleges' continuing success in dealing with human rights complaints through internal mechanisms. Our data would indicate that an Ontario human rights complaint can cost tens of thousands of dollars of legal fees, of external investigator fees, of penalties that are imposed. It's important to remember that the community colleges potentially have hundreds of thousands of clients or complainants against employers and it is the employer who must represent itself when those complaints come forward.

We can give you again specific details of the types of complaints. In the role that I play within Seneca College, we have hundreds of complaints a year and the thought of the process being destroyed by just sending people off to the Human Rights Commission is devastating at best. But we also believe that the experience can be of benefit to other institutions.

The third point, and lastly, I would urge this government to ensure that the workplace equal opportunity plans being introduced through various ministries live up to the expectation of the community. I will note that it is a concern that it was previously known as "equal opportunity plan" and we now seem to be returning to the terminology of "equal opportunity plan." The college system has a longstanding history of equity initiatives, including contractual obligations in our collective agreements. As far back as 1989, the unions and college management recognized the need for employment equity to be done jointly. It is included in both the academic and support staff provincial collective agreements and has been since 1989.

Our successes have been built upon the expertise within our institutions and our unions within the Council of Regents, within the Ministry of Education and Training and within the commission. For a workplace equal opportunity plan to be effective, this expertise must be called upon in order to provide input and commitment. To this end, the CCEEE has prepared a position paper for discussion within the community college system which will hopefully complement the forthcoming workplace equal opportunity plan while building upon our history of achievements. A copy of the position paper has been attached to your notes.

In closing, we would ask that this government move carefully in confirming Bill 8. Perhaps people see me as a pessimist; however, I am also a realist, and I ask you that with all of the greatest sense of caution as I can. I would ask that you not move hastily to confirm Bill 8. We acknowledge the government's desire to replace Bill

79 with a voluntary workplace equal opportunity plan and also to determine that the Ontario Human Rights Code can fill the gaps. However, we would ask the government not to require employers to destroy the valuable data and information obtained over the last year. At the very least, we would ask the government to consider amending the bill to provide for exemptions for employers who plan to use this data for purposes other than numeric goals.

It's important, again, to note that even the Human Rights Commission itself in its policy paper on special programs says that the commission encourages service providers, landlords, contractors, employers and trade unions or vocational associations to review their own operations with a view to voluntarily undertaking initiatives aimed at promoting greater equality in our society. The commission does not and cannot and I don't believe has the resources to be able to provide what at least is envisioned, or what I hear to be envisioned, of attempting to try and maintain a workplace free of discrimination, harassment and a workplace that's based on equality.

This would provide employers in Ontario with one of the many tools and resources necessary to achieve equal opportunity and create and maintain a workplace environment free of discrimination and harassment for everyone.

Thank you. I'm pleased to answer any questions.

The Chair: Thank you very much. We have two minutes each, starting with the third party.

Mr Marchese: I'd like to ask Mr Clement for a quick answer to this, because in the Mike Harris plan, when they talked about this, they same specifically, a portion of the money saved by winding down the commission set up to enforce the quotas"—\$9.3 million—"will be redirected to the Human Rights Commission." I want to ask Mr Clement whether that is still the commitment of the government.

Mr Clement: We certainly are intent on reforming the commission, and there have to be resources available for the commission to be reformed.

Mr Marchese: Mr Tascona made a comment earlier on that I wanted to make a brief response to. He said that the Human Rights Code deals with systemic barriers. The Human Rights Code was never set up to deal with systemic barriers. I'm not sure whether he knows that, but he's not here at the moment. It does say to companies, when they deal in individual cases, that they may have to deal with the systemic barriers that they might have, but it's case-by-case. I thought we'd put that in for the record.

But a question to you, quickly. They're very happy to have voluntary programs to deal with discrimination; that's basically their plan. We know it hasn't worked very well. What the teachers told us is that after 20 years of intervention, persuasion and education, we have moved the levels of women into positions of vice-principals and principals, and they're still behind, given their numbers in the system. What they're saying is, it's not good. They're also adding, "If it's bad for us, imagine how it is for people with disabilities and aboriginal people and people of colour." So if it took 20 years for these other groups, it'll take who knows how long. Do you think people can wait for that kind of equity to happen?

Ms Vallance-Macias: Do I think that people should have to wait 20 years? The answer is no. Do I know that we have waited 20 years or that we have been diligently working for 20 years with the commitment of a number of partners in order to receive or to achieve the successes? The answer is yes.

The Chair: The government party. Mr Flaherty.

Mr Jim Flaherty (Durham Centre): With respect to the data collection, if I understood your submission correctly, the community colleges collected this data pursuant to what is Bill 79.

Ms Vallance-Macias: Yes.

Mr Flaherty: So this data was collected to determine the extent to which members of the designated groups are employed in the employer's workforce, pursuant to section 10 of the act. Is that right?

Ms Vallance-Macias: That's only one of the 10 components where you collect data, under part III.

Mr Flaherty: Right, but that's the mandatory provision requiring the employers to collect the data.

Ms Vallance-Macias: All of 9 through 20 of Bill 79 was mandatory responsibilities on employers, and one was designated group data.

Mr Flaherty: Right. So these community colleges, as employers of these individuals, collected this data pursuant to this act, and now you're saying you don't want to destroy it. Is that right?

Ms Vallance-Macias: No, we don't want to destroy it.

Mr Flaherty: I have some difficulty with that in the context of privacy of your employees. Have you given consideration to the concept of privacy, given that these bits of data concerning race and sex and disabilities were collected pursuant to a statute that will probably be repealed?

Ms Vallance-Macias: If I can give you two responses, the first is, the Ontario Human Rights Commission gave very specific instructions on how to collect data. They don't tell you how as far as, do you do it voluntarily or do you do it by a head count? But they in fact have introduced, as far back as 1990, restrictions on how you maintain privacy of data.

Mr Flaherty: I understand that, but I'm not talking about the Human Rights Commission, I'm talking about the data you collected, which you say you collected pursuant to this act.

Ms Vallance-Macias: Right. As I said, I think, and I believe it's in the report, colleges have collected this data as far back as 1970. Some colleges continued or repeated a data collection in 1995.

Mr Flaherty: Where is the data?

The Chair: The time for that question is up.

The opposition. Mr Sergio.

Mr Sergio: Towards the summation of your presentation there, you made a couple of remarks with respect to possibly some amendments or other changes. If you had a choice, what would you rather see first, the withdrawal

totally of the bill as it is presented now or some amendments, as you have suggested?

Ms Vallance-Macias: I gave up my red shoes a long time ago—

Mr Sergio: Now, I don't want a political answer from you.

Ms Vallance-Macias: My answer is that with the repeal bill that is before us, we would ask the repeal bill to be amended as indicated in our presentation.

Mr Sergio: But if you had a choice, would you like to see the bill as presented withdrawn totally, in its entirety?

Ms Vallance-Macias: The repeal bill? Yes.

Mr Sergio: Bill 8, the one to repeal—

Ms Vallance-Macias: Yes.

Mr Sergio: So you agree, then, that if you had a choice, you would like to see the withdrawal—

Ms Vallance-Macias: Of those four little sections, ves.

The Chair: Mr Curling, did you have a question? Is Mr Sergio through there?

Mr Sergio: Do I still have time?

The Chair: Either that or Mr Curling can have a quick question.

Mr Sergio: All right, I'll concede. Okay.

Mr Curling: Thank you very much. I just wanted to say it's an excellent presentation. It came right to the heart of it all. The fact is that I just want your comments in regard to training, the importance of training, access to training that you have seen. I know your experiences over the years are things that people must stand up to look at.

What about access to training? You've spoken—I'll be very quick—about the community, that the college must be a role model, in a sense, to the community, which is imperfect; that they see themselves as leaders, and also individuals who want access to jobs, who are being denied. I think that's what's implied here. Do you think the destruction of Bill 79 will destroy that hope of people for the community college to play that role as a role model in our community and will deny many people access to proper training because of this repeal of Bill 79?

Ms Vallance-Macias: It's a qualified no. I say-

The Chair: Thank you, madam.

Ms Vallance-Macias: Oh, that was quick.

The Chair: He took a little too long to ask the question.

Thank you very much for your presentation. We appreciate your interest in our process.

BUSINESS CONSORTIUM ON WORKPLACE DIVERSITY

The Chair: The next group is the Business Consortium on Workplace Diversity. I hope I've got all these names right: Maureen Geddes, Bonnie Miller, Janice Thomson, Phillip Francis and Steve Iley. Obviously you all understand the rules of our presentation process. We welcome you here and the floor is yours.

Ms Maureen Geddes: Thank you, Mr Chairman—Jack—I appreciate it. My name is Maureen Geddes, and I'm the chairperson of the Business Consortium on Workplace Diversity. We have been together, a group of companies formed in 1991, to work on the—when we were invited by the then government to participate in the process and we were concerned that if we were going to be legislated there was legislation that was workable for business. I won't go through all the detail of our proposal here, because I think our time may be more valuably used by answering any questions you may have. I'll present it very briefly and you can look to the document for details.

We do support the concept of Bill 8, particularly sections 1 and 3. We do recommend one change to subsection 1(5) in the addition of a new clause. The change we are recommending is to replace the fifth clause with the clause to allow employers to retain workforce demographic data as required for legitimate business purposes. Our point on that is that we believe the collection of workforce data is legitimate business aspect of managing a diverse workforce. For example, the data are very helpful in identifying any systemic barriers to creating an equitable workplace for all employees.

I think one of the examples that helps make that easier to comprehend is one in my workforce where we have predominantly women answering our incoming customer calls, and we have many men coming in from the field, with many years of customer service and plant service in our field roles, who are no longer physically capable of performing those roles but have a tremendous wealth of knowledge that would be well served and continue to serve in the workforce but there's an attitudinal barrier, a concern about doing "women's work." So when we do our diversity plan for our organization we address both the systemic barriers, the attitudinal barriers, all of the barriers between all people having access to work, and that includes the so-called designated groups as well as the majority of our particular workforce.

A couple of points that we put in to note around supportive—the shift on that clause—we would prefer again that the employers not be required to destroy it. We'd point out that Bill 8 does not prevent an employer from doing a new survey so there's not much logic to requiring employers to destroy existing data that they may need when they can in fact go out and do it again. And furthermore, any future surveys conducted would be covered by the Ontario Human Rights Code and would protect the integrity of that data and its use.

Our second recommendation is to add an additional clause to address the concern around the special program provisions of the Ontario Human Rights Code. Our concern would be that any legitimate diversity or equity initiatives in a workplace would be required to be registered as special programs under the Ontario Human Rights Code if Bill 8 were enacted as it stands today.

So if we amended subsection (5), as we were suggesting before, we would also recommend that an additional clause be put in to have Bill 8 supersede the Ontario Human Rights Code on the special programs section so that we wouldn't have an additional administrative burden in the guise of having to register every initiative that is taking place in that area.

We have a number of points. Our final point is the work on the equal opportunity plan. We have appreciated the opportunity to be part of some of the initial consultations on the equal opportunity plan. We hope to see that process continue, and there are a number of initiatives we suggest that are listed in your document and I'm not clear that it's the purpose of today to go through all of those. But we do believe that many of the initiatives, such as educating employers about best practices and the removal of systemic barriers—there is a clear role for government in that area, a non-legislative role but a role that is important. We trust that the resources will continue to be put to that direction.

I will conclude that, as a group of employers who support the concepts of equal opportunity, we would be happy to share our experience and expertise in the development of that plan and answer any questions you have about our proposal to amend Bill 8.

The Chair: Thank you very much for your presentation. We have about five minutes per party, starting with the government party.

Mr R. Gary Stewart (Peterborough): My apologies for being out, but I had a phone call to make.

I'm looking at your equal opportunity plan where it's suggesting, "Identify role models—corporate and small business." Are you suggesting some type of a generic plan that could be used by management to address all of the issues, ie, hiring, promotion etc, this type of thing, for all levels? Is that what you're suggesting in there?

Ms Geddes: Yes and no.

Mr Stewart: Because there are two variations, I guess, between corporate and small business. I guess what I'm looking for as a small business person—what your thoughts are. Is it a generic plan or possibly one that would address both large business and small business, or one of each?

Ms Geddes: I don't know that a summary of best practices would address this. Certainly some practices that work in large organizations don't even apply or are not relevant in a small business environment. I'm familiar with both workplaces and I think that an equal opportunity plan would encompass a number of different initiatives, some targeted at big businesses and some at small, and some at education in the school systems. I would hope it would be a very broad-based plan. Sometimes there are initiatives that could apply across the piece, some general education materials perhaps that any business could use in a small discussion setting, but not a specific plan.

Mr Stewart: You've said to me a word, the "broad-based plan," so that the input of the individual owners or the individual presidents, or whatever, can extend that plan as they go along.

Ms Geddes: Exactly.

Mr Flaherty: On the data collection aspect of it, I was looking at page 2 of your summary, and you went over this briefly. You said, "Where data was collected under the provisions of the Employment Equity Act, 1993, and where employees were provided with the

option not to provide employment equity data, employers should not be required to destroy existing data." That may be a typo, but no employees were required to provide that data pursuant to the statute. The statute itself said an employee has the right to decide whether to answer those questions. So I take it that no employee was compelled to provide that data.

Ms Geddes: That's correct, and I guess we were just trying to emphasize that point, that this was data that was collected voluntarily. Even though it was required by law that people fill out the survey, there was a little box that I always called—you know, you have the right not to play—put it in technically—

Mr Flaherty: I understand. My concern remains that certain questions were collected under that statute, as it stands now, that are data you're not entitled to collect in normal circumstances without the benefit of this statute, and that's my concern with the preservation of that data when this law is repealed. Have you given that some consideration?

Ms Geddes: A great deal of consideration, and we've come to the conclusion, as an organization committed to understanding our customer base and being here five years from now and 10 years from now to continue to serve that customer base, that we need to reflect that customer base in our employees and provide service in languages and be sensitive to the differences in our customer base. To do that most effectively, we have to be able to analyse the workforce like any other business problem.

We protect the confidentiality of data around benefits. That is highly sensitive, and we've found in the collection of this data, as an example, that the most sensitive area for people was the area related to disability. If we can protect the confidentiality of their information for the benefits provision, we suggest to you that we can do the same on this type of data, and we do.

Mr Flaherty: I appreciate your answer and I appreciate you all coming this afternoon.

Mr Clement: Just a quick question. As I read section 14 of the Human Rights Code, there is no positive obligation for you to register a special program. Do you read it differently than I do?

Ms Geddes: Yes.

Mr Clement: Okay. Do you have experience to back up your interpretation?

Ms Geddes: We did consult a couple of legal directions on that, and in many cases employers would be recommended by legal counsel to proactively register programs to protect themselves from situations where individuals can go and make a proactive complaint and you won't have that protection. By the time it's through the press and it actually gets to getting resolved under the code, it could drag on for a length of time, which proactively registering it and going through that cost and that process I see as a deterrent to supporting diversity initiatives in the workplace.

The Chair: Thank you. Mr Maves, you'll have to wait till the next time around. Mr Sergio, I presume you had a question.

Mr Sergio: I would have a few if time would allow, Mr Chair.

The 10 companies which you represent here, I would assume they all fall within the guidelines now?

Ms Geddes: The guidelines of what?

Mr Sergio: Of the employment equity law.

Ms Geddes: That would be correct.

Mr Sergio: All very good companies and they all seem to be doing very well, which is good. Ms Geddes, on the background page, which is page 1—and forgive me, because maybe I have misunderstood your presentation and I hope I did—it says, "The Business Consortium on Workplace Diversity (the consortium) is a group of 10 companies which supports the concept and objectives of equal opportunity."

The next line strikes me. It says, "The consortium believes that these concepts and objectives are best achieved outside of legislation and regulatory controls." Are you saying that you support, on behalf of these 10 companies, the abolition of the equity law as it now stands?

Ms Geddes: Yes.

Mr Sergio: I see. I have no other question.

The Chair: Ms Pupatello, did you have a question?

Mrs Pupatello: No, thank you.

Ms Churley: I just wanted to come back to the data collection because I recognize from your presentation that we have some fundamental disagreements on the best way to pursue employment equity. But I think there's an area of agreement here and that is on the data collection, and this is something that we're hoping very much we can convince the government should be changed.

I would just like to explore again a little more that the data collection that you have—I assume it's not that different or the same as data, for instance, that the federal government uses and that it doesn't contravene the Human Rights Code.

The third question would be for you to be more precise about what would happen to companies such as the ones you represent, and others who have collected this data and do want to proceed on a volunteer basis? If that data has to be destroyed, would you in fact be asking the very same questions on a volunteer basis all over again or would you perhaps do it differently? What would be involved in having to retrieve that data again?

Ms Geddes: I'd suggest essentially the same questions all over again. We did have some minor disagreements with what came out, but nothing that would require us to go out and resurvey or that we would go to that expense. It would be a waste of time and money to have to recreate, but we would do that. We are committed to the diversity of our workforce. We believe it is a significant, competitive advantage in a global economy and that it is essential for us to deal with this and to deal with issues related to diversity in a proactive business fashion to survive and compete in the future, and we would collect it again, but it would cause a significant cost. We would appreciate very much not having to do that.

Ms Churley: A follow up: Would you have any fears that if this government chooses to proceed with demanding that this data be destroyed, that it could set some kind of precedent in terms of—if you're doing this on a volunteer basis of somebody coming forward—I don't know through which methods, courts, Human Rights Commission or something, trying to be stopped from collecting that data. Do you see this as perhaps setting a bad precedent in terms of, if it's been done on a volunteer basis of government saying, "We don't want this data that's collected simply because we didn't like the bill under which it was designed, so destroy it?"

Then you go ahead and start all over again and ask for the same information and somebody could come and say, "This data, a government asked you to destroy it and now you're collecting it all over again after you've been asked to destroy it." Do you have fears that if you've been asked to destroy it once under the bill, if you try to do it again—

Ms Geddes: I'm trusting and I guess I'm confident, having taken the time to put together a group of organizations that have spent a lot of time and money in this area and that we've taken the time to be here, that our experience will be heard.

The Chair: Mr Marchese, about a minute and a half left, sir.

Mr Marchese: I'd like to ask legal advice because Mr Flaherty mentioned the collection of information as perhaps conflicting with privacy rights, whether they're collected under employment equity or not. My understanding is that the Human Rights Code under section 14 permits that and that the charter permits that. Is that your understanding? To legal counsel.

1610

The Chair: We don't have legal counsel.

Mr Marchese: We don't have legal counsel? The researcher? The policy person?

The Chair: Anybody from the ministry have an answer? Okay, we have our expert from the ministry.

Mr William Bromm: What you've stated is correct: Section 14 of the code, which authorizes the creation of special programs, permits the collection of data that are a part of that special program. It's a similar interpretation of the charter as well that if a government is developing a special program, then data collection is seen as a natural part of that program if the statistical evidence is being used to establish the need for, and the success of, the program.

Ms Geddes: Just one last comment. You may have had other experience, but I simply have not found any employer who's interested in using data to set quotas. If the concern, I assume, is around the confidentiality, then employers do understand and respect the need for that confidentiality and the data will be used accordingly. The Human Rights Code will protect—

Mr Curling: I just have a point of information—

The Chair: Thank you. We appreciate your attendance at our hearing and being involved in the process.

Ms Geddes: Thank you.

Mr Curling: Does it help assist them make an equity workplace effective?

BLACK ADVISORY COMMITTEE

The Chair: The next presenters are Grace Galubuzzi and Diane O'Reggion from the Black Advisory Committee. Are the people from the next group here? Are you Ms O'Reggion?

Ms Faith Lindo: My name is Faith Lindo.

The Chair: I presume the other two presenters we had scheduled are not going to be here?

Ms Lindo: One couldn't be here.

The Chair: So you're here on your own?

Ms Lindo: Yes.

The Chair: You have 20 minutes to use as you see fit. Any time to be available for questions at the end is up to you, at your discretion. The questions would start with the official opposition. The floor is yours.

Ms Lindo: We mourn the passing of the Employment Equity Act, sections of the Police Services Act, the Education Act and the Ontario Human Rights Code relating to employment equity. It represents an abandonment of a vision of society that honours the aspiration of all of Ontario's people and not just the privileged few. It denies the painful reality of so many of our lives: one of discrimination in employment, denial of opportunity and closed doors and glass ceilings.

Bill 79 and the provisions of the other legislation the government wants to repeal gave us hope: hope that society had heard our cries and was prepared to act to secure our rights; hope that our potential and the full extent of our talents would finally be realized; hope that, after a history of 100 years in this country and province, our full citizenship would be assured and we would be able to work and earn a livelihood like other Ontarians, we would be promoted and have our skills and training and qualifications compensated like other Ontarians; hope that our children would see black and minority teachers and principals in their schools as role models, so they would feel more welcome and less inclined to exercise the option of dropping out; hope that police services would become representative, more sensitive to diverse cultures, and provide better community-based policing.

This hope is being quashed by a single rash action, so we mourn the day this legislation will pass, a day that reverses decades of hard work to educate the people of Ontario about our historical disadvantage in the workplace and to the workplace—our struggles to earn a decent livelihood like other Ontarians.

False claim: We are all here under false pretence. The bill we speak to today is predicated on a big lie. It is a falsehood to claim that this bill is a quota law. It is a purposeful, demagogic misrepresentation of reality and the truth. There is no quota law in this province and never has been. Bill 8 is fallaciously named as a bill to repeal quota laws and restore merit. It will do nothing of the sort. You know it, we know it and anyone who knows anything about fairness and equity knows it. This is the big lie which has been repeated so often by its proponents that they may now believe it. It is ideological fantasy. They either don't know it or they are being dis-

honest. That is not a good frame of mind to legislate in.

If the composition of the government side of this committee represents the return to merit-based recruitment, there is much to worry about in this bold new Ontario. Where is the diversity and tolerance of difference Ontarians have come to expect of their governments? What signal are you sending to women, racial minorities, persons with disabilities and aboriginal people when the committee that strikes down legislation to help end their discrimination and to purport to restore merit is all white and male?

We say, woe is Ontario if we are to be dragged back to the days of gender ghettoes in the workplace, race-based pigeonholing and arbitrary compensation for persons with disabilities. We recall that during the election the great Tory leader suggested that disabled people be paid a fraction of what able-bodied people earn, this without any consideration of their skills or the requirements of the job at hand. Just another blanket edit. Perhaps this suggests they are only entitled to a fraction of a livelihood.

We resent the inference that when one hires women, racial minorities, aboriginal people or persons with disabilities, one compromises merit and that the chronic overrepresentation of able-bodied white males on legislative committees, in cabinet, in boardrooms, in university faculties, in senior management is the natural order of things.

We need to speak plainly about what is happening to our community and about the pain and suffering in our community. African Canadians feel that the contorted logic that has taken hold of many reasonable people is damning us to a society that denies our voice and talents, a society that is not interested in equal rights and access for all, a divided society where only the opinion and experiences of the majority culture count.

It invites us to contemplate acting, thinking and looking white if we are to be considered for a chance at earning a decent livelihood. It is a society we thought our ancestors had emancipated us from. It is oppressive and untenable. Our children will not take it lying down. They shouldn't. Our youths have higher than average unemployment numbers and our professionals have higher than average education but are frustrated because they are denied the opportunities to get ahead. They have endured a campaign of demonization, criminalization, marginalization and slander. They are now being asked by the government to cool their heels when it comes to opportunity. They, like their parents, are being asked to wait until their peers have been placed. It is last hired, first fired being re-entrenched.

1620

Why we need employment equity: The case for employment equity was best articulated by Judge Rosalie Abella in her royal commission report titled Equality in Employment: A Royal Commission Report, 1984. There is discrimination in employment and in the workplaces of the nation. This discrimination imposes disadvantages for some Ontarians seeking employment and promotion.

Society's disadvantages in employment are dispropor-

tionately assumed by women, racial minorities, persons with disabilities and aboriginal peoples. These disadvantages have resulted in disproportionate representation of aboriginal people, racial minorities, persons with disabilities and confirm women to overrepresentation in low-paid, low status, so-called pink ghettos with little opportunity for advancement. These groups have high unemployment rates and are too often last hired and first fired. Too often these Ontarians with merit are overlooked and penalized by systemic employment practices that restrict recruitment to word of mouth or those who are well connected.

This discrimination is both intentional and systemic. There still exist many incidences of direct, intentional discrimination in employment, and the laborious Human Rights Commission process has done little to ensure speedy justice for victims of discrimination. But it has also been established in study after study that there is a systemic form of discrimination that leads to arbitrary obstructions to access to employment and promotion in many workplaces both in the public and private sectors. It is this form of discrimination that many governments in Canada have acknowledged as responsible for the inequities in employment disproportionately faced by women, racial minorities, persons with disabilities and aboriginal people.

Most specifically for the black community, two Urban Alliance on Race Relations studies said it plain. Who Gets the Job documents the fact that three whites for every one black candidate of equal qualification and experience get the job. "No discrimination here" say employers. See no evil, hear no evil. Many employers don't acknowledge the existence of discrimination in the employment. That is why we need legislation to protect us and ensure access to jobs and promotion.

This legislation drags Ontario back to the days we want to escape from. In spite of the existence of federal and provincial human rights legislation, our historical reality is that we continue to be stereotyped out of opportunity in the workplace, ghettoized in low-end, low-pay jobs. Our youth are streamed into deadend programs and many instinctively drop out in protest.

This is not a happy time for us and this legislation is a frightening reversal of any progress we have anticipated. We are immigrants and Canadian-born. For those who don't know, the black Canadian experience dates back to the days when black Loyalists helped found and defend this country. Yet many were deported back into slavery in the United States. Those lucky enough to stay survived and helped build this land but continue to chase after the opportunities they see their fellow Canadians enjoy.

An Economic Council of Canada study two years ago spoke volumes about our workplaces and that message was confirmed by a StatsCan study recently that the academic achievements of African-Canadians have not translated into appropriate employment and compensation. It matters less that they are immigrants or Canadian-born. Yet today the response of the government to this denial of opportunity is not to attack intentional and unintentional racism and systemic discrimination. The response

is to strike down the very instrument that many agree can deal with the problem.

This is not the way to build a multicultural, pluralist, fair and equitable society. This is not the way to build a civil society that celebrates diversity. Effective mandatory legislation is what made the federal government a bilingual federal service. We know it works and is efficient in a multicultural society. Why the closed-mindedness on the part of the government?

Employment equity and police forces: It is no secret that our community has faced challenges with police forces in this province. Many of us recall that it was yet another shooting of a black in unexplainable circumstances that led us to the first revamp of the Police Services Act in 40 years. The 1990 act included a commitment to community-based policing and employment equity. The vision was for more representative police forces that would be sensitive to the multicultural reality of our province.

This attack on employment equity in policing, which was working, by all accounts, will reverse the progress we have made. The police officials who resisted change are now emboldened and are demanding a stop to employment equity because the government says so. They will now prepare to dismantle the apparatus in place to diversify our police forces. We will set back community policing and unleash conflict between communities and police. And for sure our people will lose their lives in the ensuing chaos. Shame.

Education and employment equity: The attack on employment equity in education will also have far-reaching implications. While we struggle to educate our youths in an education system that too often devalues and marginalizes their experience and rejects their history, there was some hope that teachers and principals in the schools will begin to reflect the school population. This legislation denies that hope. Minority and working-class students will continue to want for mentors.

In 1990, the government of the day mandated school boards to develop employment equity programs for women and other designated groups. Most boards ignored the requirement to develop plans for other designated groups until 1992, when the Education Act was amended to require employment equity for visible minorities and other groups. The policy and program memorandum implementing employment equity is not two years old and the legislation is now being repealed. That legislation also implements anti-racism programs in the schools. You can imagine how inspiring that is.

After all these years of fighting for our children, we are left with nothing to ensure equity in education. The many black educators who are supply teachers or who were trained outside the province and saw this as an opportunity to practise their chosen profession are back in limbo. It is hard to believe that the government understands the full implications of its actions.

The inclusive vision contained in Bill 79, the Employment Equity Act, 1993, acknowledges the existence of persistent systemic and intentional discrimination in employment. This discrimination is in part responsible for the underrepresentation in most areas of employment,

especially senior and management positions, and overrepresentation in low-end jobs with little prospect for advancement of members of the following groups: women, racial minorities, persons with disabilities and aboriginal people. It seeks to protect all of Ontario's citizens from discriminatory employment practices and ensure equal access to that opportunity for all.

Finally, the government has suggested four reasons why the employment equity legislation is being repealed.

It claims the legislation is unnecessary:

Not so. Studies done, including the Rosalie Abella commission report, titled Equality in Employment, clearly established the persistence of systemic discrimination in employment. Studies also conclude that voluntary attempts have not worked while legislated efforts have led to results. Mandatory legislation was responsible for making the federal civil service bilingual.

It claims it is unfair:

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Employment equity legislation removes barriers to employment and promotion. It is aimed at redressing historic disadvantages suffered by many Ontarians. It introduces a level playing field in the job market by requiring standard practices and transparent policies. It attacks job ghettos and restores hope for many denied opportunity by discriminatory hiring practices.

It claims it is ineffective:

To the contrary, employers like the Royal Bank, the Bank of Nova Scotia and Canadian National Railways have benefited from the federal employment equity legislation by creating more diverse workplaces. Employers have clearly stated during consultation that they see the need for the kind of working partnerships among employers, employees, unions and women, racial minorities, persons with disabilities, aboriginal people and other community organizations. Bill 79 was not even given a chance before this repeal.

Voluntary employment equity hasn't worked and the Tories have provided no plan to deal with discrimination in employment while slashing and burning measures to deal with harassment and discrimination in the OPS. The Ontario Human Rights Commission is no alternative to dealing with systemic discrimination. It takes too long to deal with complaints and most complainants have gotten no satisfaction from it. Yet that is where the Tories are sending the women, racial minorities, persons with disabilities and aboriginal people who are denied fairness in employment.

It claims it is too costly:

Studies done in various jurisdictions prove that the return to investment in barrier removal, diversity training and good human resource planning more than justify the investment in employment equity. Employers and employees working together to implement employment equity leads to increased productivity and more profitability. Many employers acknowledge that using the broadest pool available will make them more competitive and standardizing their selection processes will make them more productive. It is a worthwhile investment. What would be costly is having to destroy the information they

have collected for the purposes of improving their human resources practices.

Repealing legislation without anything to replace it betrays a lack of sophistication necessary to govern a diverse, modern society. It is regrettable that the government should choose to approach its responsibility for all Ontarians this way. Tearing down is no way to build a democracy. We build a civil society by broadening our minds and including different opinions and experiences. Please resist the temptation not to listen to the wisdom of others' experiences.

Thank you for the opportunity to address you on this important public policy issue.

The Chair: Thank you very much, Ms Lindo. You were very good in the time there. You used all the time for your presentation, and please be assured that we will read the parts that you didn't get a chance to read to us. We appreciate your interest in the process. Thank you very much.

Mr Curling: Any questions we could ask of the parliamentary assistant?

The Chair: The presenters were all given 20 minutes and told to use it any way they chose. Ms Lindo decided to use it all for her presentation, so there is no time for questions.

Mr Curling: That is democracy for you there.

TORONTO BOARD OF EDUCATION

The Chair: The next presenters are the Toronto Board of Education: Janet Ray, Susan Cook, Susan McGrath, Tam Goossen, John Doherty and Horace Knight. Welcome to our committee. You have 20 minutes and you can use them as you see fit. So the floor is yours. Thank you for visiting with us.

Ms Janet Ray: If I may put some faces to the names, I am Janet Ray. I'm the senior superintendent of human resources with the Toronto Board of Education. On my immediate right is Tam Goossen, trustee and chair of our race relations committee. On my left is Susan Cook, the superintendent of our personnel services, and on my far left John Doherty, trustee and chair of our personnel and organization committee. The other two mentioned have graciously agreed to sit slightly behind the delegation: Horace Knight, who is the manager of our staff relations department, and Susan McGrath, from our equal opportunity office, adviser to the director. Trustee Doherty will begin our presentation and Superintendent Cook will pursue it from there.

Mr John Doherty: Thank you, Mr Chair, and thank you, committee members, for the opportunity to address you. I want to address three brief points before we get to the body of our presentation this afternoon.

We are here to support the current legislation for three reasons, I believe, that are important to state today. One is, I think the public in Ontario needs to have confidence in the hiring practices of its public institutions and its large institutions across the province. It is important that the hiring processes be clear, be transparent and be seen to be fair and equitable to all so that merit and skill are the primary determinants of the hiring practices.

Employment equity has started a process, through our public institutions and through our large employers in this province, of reviewing our employment practices to ensure that when we come to the interview process and the selection process, we are clear as to our objectives in our hiring and we are clear that we are giving fair consideration to all those who have applied for jobs. It ensures that there is an ongoing review that takes place through our organizations to ensure that our practices remain consistent and fair and that merit and skill are the main determinants ensuring the candidates are selected for the job.

We think that is important for public confidence and for all the taxpayers in this province, to believe that they have an equal opportunity to be hired in this province. We would encourage you to reconsider the legislation and to look at ensuring that those premises are part of any legislation, and we believe that the current legislation will undermine that.

Interjections.

Mr Doherty: No. We support the current legislation.

Mrs Pupatello: Oh, as opposed to the—Interjection: The one we're killing.

Interjection: We'd drop this one here, right?

Mr Doherty: Yes.

The Chair: We'll keep the questions till the—Interjection: We know it's very complicated.

Interjections.

Mr Doherty: It's very simple.

Ms Susan Cook: Mr Chair, members of the committee, thank you very much for the opportunity to address you on this very important topic.

The Toronto Board of Education has a student population of 78,000 and offers public education services in a city which has been declared as the most diverse population in the world. As a major employer in the province, the board supports the principles inherent in the current Employment Equity Act and has very serious concerns about the implications of the repeal provisions of Bill 8.

The Toronto board strongly believes that the delivery of superior educational services is better served when the employment force reflects the diversity of the student and parent populations of our schools. With this in mind, our board, acting within the special provisions of the Ontario Human Rights Code, has had equal opportunity initiatives since the 1970s and has had a goals and timetables program since 1991.

Through the 1970s and 1980s, our efforts in terms of equal opportunity were focused primarily on establishing an environment which was responsive to the changing diversity of our city and was open to changes in the composition of the traditional workforce. Apart from compliance with the Ministry of Education's goals and timetables program for the promotion of women in positions of responsibility in schools, no other employment goals were set. Many employment systems were improved. These include our methods of describing and advertising job opportunities, how we trained our hiring

managers, staff development for individuals aspiring to promotions and introduction of policies to deal with racial mistreatment and sexual harassment.

Despite all these improvements in our systems, we found when we did a workforce survey in 1990 and compared the results with demographic information available for our area from Census Canada that the representation of some groups in our workforce lagged significantly behind the representation in the local population. The most noticeable gaps affected racial minority groups and persons with disabilities. The same Census Canada information confirmed that the gap was not attributable to a lack of qualifications. In fact, the underrepresented groups tended to have higher qualifications than the general population.

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It was at this time that we instituted a goals and timetables program with the aim of improving the fairness of representation in our workforce by the year 2000. We did not set quotas. We set reasonable and flexible goals to aim for, with the understanding that if we did not reach these goals, the remedy would be to reexamine our employment practices and set revised goals and timetables. All hiring and promotion conducted in this program was and continues to be based on selecting the best-qualified candidate for the job. In other words, it is based entirely on the merit principle. This approach is clearly not a quota system. Equally clear to us is the fact that our obligations under the Employment Equity Act did not require us to deal with quotas either, but rather reinforced the flexible goals and timetables program we had already embarked upon.

While our program contains many qualitative measures designed to ensure barrier-free employment systems, the program also includes the maintenance of a workforce database to enable us to measure the degree to which our workforce does in fact mirror the communities we serve.

The introduction of the Employment Equity Act reinforced and refined the programs we already had in place. Collection of workforce data on a voluntary basis provided for in that legislation was regarded by our board as part of the continuum of information maintenance, as well as an opportunity to refresh the database which was created in 1990 and to which we had been continuously adding information.

We have therefore a particular concern about the provision in Bill 8, subsection 1(5), which requires the destruction of employee information collected voluntarily under the auspices of the Employment Equity Act. In our case, we did not work with two parallel data collection mechanisms, one to maintain our already existing database and one separate one to comply with employment equity legislation. We did not have two databases. We had planned to use data collected in response to the Employment Equity Act as a continuing piece of the workforce information we have been collecting since 1990. A requirement to destroy that information destroys the continuity and integrity of a significant piece of the special programs we initiated pursuant to section 14 of the Human Rights Code.

While we oppose absolutely the repeal of the Employment Equity Act, we would urge as a minimum an amendment to the proposed bill which will permit employers who were pursuing special employment programs prior to the introduction of the Employment Equity Act to retain information vital to the measurement of the success of our programs.

We have an additional and separate concern about the implications of subsection 1(5) of Bill 8. This relates to our ability to defend ourselves in cases of human rights complaints. Destruction of data which proves that we do not have a record of discrimination against any particular group or groups potentially damages our reputation as an equal opportunity employer and embroils us in the costs associated with providing defence at hearings of the Human Rights Commission. As a public service employer, we are anxious not to spend taxpayers' money on such protracted litigation.

As indicated in our opening statements, we are strongly committed to placing ourselves in a position where we are clearly seen as reflecting the diversity of our communities. In this regard, we are acting in the manner of any business which plans strategically to be responsive to its clientele. Census Canada and the Health and Activity Limitation Survey have published information which clearly indicates the rapid demographic changes occurring in the greater Metropolitan Toronto area. We know that while we have made positive efforts to keep pace with these changes, we still lag behind, and believe that proactive measures, including goals to work towards, are and will be required to ensure workplaces where the potential of all people in the workforce has an opportunity to be recognized and used.

We believe the provisions of the Employment Equity Act support this direction, as do the special provisions in the Ontario Human Rights Code. The Toronto Board of Education will continue to work within any and all appropriate legislative frameworks to continue to ensure the best environment possible for its students, parents and employees. Thank you.

The Chair: Thank you. We now have about two minutes per party for questions, beginning with the official opposition.

Mrs Pupatello: The initiatives that your board undertook on your own were implemented in 1990, or prior to that?

Ms Cook: We have been implementing equal opportunity initiatives since the 1970s. A more formal employment equity program, including goals and timetables, we began work on around 1989, did a workforce survey in 1990, and adopted a goals and timetables program in 1991, and we've been working with that.

Mrs Pupatello: Did you have legal or court fees etc? Have you been having those kinds of expenses up until this point? When you mentioned about you really shouldn't spend taxpayers' money being embroiled in these kinds of court battles that may result in an appeal, have you had that kind of legal cost at this point?

Ms Cook: If the question is, have we been involved in defending ourselves in human rights complaints, the

answer is yes, we have, and we have had legal costs associated with that. I'd also like to add that we've never lost a case.

The Chair: Mr Sergio, you have a time for a very quick question.

Mr Sergio: It is very evident that you have made very big strides in accomplishing what you set out to do, but it's also very much clear that you fell behind in accomplishing the equality in your workplace. Do you think that without this legislation you can reach that, or is it going to be a further hindrance to accomplish that, the equality in the workplace?

Ms Cook: I certainly think it will be more difficult for us to achieve our goals without this kind of legislation. We felt this kind of legislation created an environment in this province where we were all working together for common goals and that this would very much help us in terms of improving our record in the directions that we wish to go in.

The Chair: Thank you very much, Mr Sergio. For the NDP, Mr Marchese.

Mr Marchese: Thank you, Mr Chair, and it's nice to see all of you. I want to ask you a question that comes out of the—

Interjection: I miss him.

Mr Marchese: I miss all of you. What a board. I'd like to be back there now.

The Federation of Women Teachers' Associations of Ontario gave a submission, and they said that the equal opportunity approach meant the following: "In 1980, women were two-thirds of the teachers, 15% of vice-principals and only 7% of principals." Then they say, "Even after intervention, persuasion, education and funds provided to boards of education, 15 years later in 1995 women were three-quarters of the teachers, 52% of the vice-principals and 33% of the principals."

My point is that it took a long time, with a great deal of work, to get to that modest achievement. They argue that equal opportunity works, that they have made gains, and isn't that all right? What's your view of that?

Ms Cook: Our view is that, yes, while it's nice that gains are made, I think they always have to be looked at in relation to the factual realities you're working with. If you have an employment pool where 70% of the people in that pool are women and 60% of the positions of responsibility are held by men, and you then make some gains to the point where maybe 30% of the positions come to be held by women, yes, that's progress but you still have got a very long way to go, and anything that gets you there faster and achieves the kind of equity that equal representation of the employment pool vis-à-vis positions of responsibility—anything that helps you do that is something that should be seriously worked with. 1650

The Chair: Thank you. There are three names on the list for the government party, so you can use your time accordingly.

Mr Maves: Just a quick one. You started your own employment equity programs before the legislation. Is it

safe to assume that you'll continue to promote employment equity even without the legislation?

Ms Cook: Yes.

Mr Clement: Do you think that sometimes when employees are asked to do something by employers, they feel a compulsion to do so because of the overwhelming influence and superiority of the employer, superiority not in a physical sense but just in terms of the influence of the employer?

Ms Cook: I'm sorry; I haven't picked up the import of your question. Could you repeat it, please?

Mr Clement: Do you think that sometimes when employees are asked to do something by the employer, the employees, even if they don't want to do that, feel that they have to do that given the influence in their lives of the employer?

Ms Cook: Would you like to respond to it?

Ms Ray: Yes, if I may, Mr Chair. I believe that when you present something on a totally and absolutely confidential basis and give the person the right to respond both completely and with the sense of, "I do not wish to respond to this," you have taken into account every privacy and confidential wish of the individual and there is no threat and no feeling that you have to comply.

Mr Clement: Even if the employee knows that if the employee refuses to fill out the form—say there's a handicap which is not visible and they refuse to fill out that form—the employer will be penalized in terms of the numerical targets?

Ms Ray: The form is very clear. If they do not wish to complete the form, they simply say, "I do not wish to complete this," and send the form in. That is all there is to the form.

The Chair: Thank you very much. We appreciate your involvement in our process and your presentation.

ORGANIZATION OF BLACK TRADESMEN AND TRADESWOMEN OF ONTARIO

The Chair: Our next presenters are from the Organization of Black Tradesmen and Tradeswomen of Ontario: Michael Carter, who's a board member. Welcome, Mr Carter. You have 20 minutes to use as you see fit. The questions, when you get around to them, will start with the NDP, so we appreciate your coming to talk to us. The floor's all yours, sir.

Mr Sergio: Did you say he's from the NDP?

The Chair: No. I said the questions will start with the NDP.

Mr Sergio: Oh, I'm sorry.

Mr Michael Carter: Good evening, ladies and gentlemen. My name is Michael Carter. I'm a board member of the Organization of Black Tradesmen and Tradeswomen of Ontario, referred to in short as OBTTO. In my brief I was supposed to be accompanied by one of our consultants, but apparently she fell ill so hence I'm here alone. I apologize on behalf of her.

The Organization of Black Tradesmen and Tradeswomen of Ontario, OBTTO, as referred to in the future, is a not-for-profit corporation which was established in 1989.

Who we are: Our mission statement is to promote better access to jobs and apprenticeships in the trades for black youths and black women and to disseminate more information on jobs and apprenticeships in the trades among racial minorities, especially black youths and black women.

Why do we exist? As I say, when we were formed back in 1989, it was formed from a group of construction workers who were in their forties and fifties, and they looked around and saw that there were no young blacks entering the construction trade. Hence, we all got together—I was not involved in that group initially; I got involved after-and we started doing a little bit of research, as much as we could on our own, and contacted a couple of the unions and found out they averaged about 50,000 apprentices in the trades area in Ontario and there were less than about 50 blacks involved in this trade. Hence we got together and formed a group, and what we did together-myself and the then Education ministerwe started liaisoning between the unions and some large corporations and put this fact towards the unions. That's where our grass roots started.

I must admit that you just have to look at any construction site or road situation and you can see the lack of certain groups in the workforce or in that specific area. However, we approached a couple of the unions and it was amazing; we had a very good response. We pointed out to them that one particular union had 4,000 employees and they had no blacks represented and they had very few women even in their own class. When we brought this to their attention, it's amazing that the people within the union were sort of shocked and amazed, because I think this is where the systemic reasons come in. They weren't even aware of it.

It goes back, I guess, to what you call the old-school system where you're employed in a union, a construction site comes up, they want somebody to work and you tell your buddy, your friend, your neighbour, your kid, and it goes on and on. It's pretty difficult for somebody else to fit into that clique. Sometimes somebody is in the construction and there's a language situation, hence when you place someone in that situation they have a tendency, if they don't want you in that clique, to find reasons why you shouldn't be there.

However, we were able to make a lot of headway in some of the unions. They saw what we were talking about, they sympathized and we were able to place a number of our personnel in different unions from time to time as we went along. That's basically why we existed in the first instance. It grew from a small group and we're getting large. We got involved with the government; we got involved with different people.

But I must say there were some unions we couldn't break into and to date we haven't broken into. Without the employment equity legislation, we think we would not have made headway in certain areas of the trades, which is what we're concentrating on, getting into the trades. We do a bit of large corporations and business that we get involved with.

Just to make some references, we had an encounter this year, in the early summer, with an area manager with

Bell Canada who looks after the Phonecentres. He manages all the Phonecentres in Ontario. Just in conversations, that's all—we just set up meetings and have conversations—we questioned him as to how many employees he looked after and he mentioned a couple thousand and he had about a thousand black employees within that group that he's managing. We asked him, "Do you have any black managers?" He looked sort of shocked and he said, "No, but I never thought of it." These are the things that happen, I think, even though employment equity was in force, and being in that position he never even looked at the figure. He had so many employees of one race and he had so many mangers throughout the whole of Ontario, and there's no area where he saw it fit. They even had Chinese managers in certain areas where the majority was Chinese, which is fine, but there was not a black manager. However, he said he was going to look into it, and I must admit to date he has placed a black manager in one of the

So what we're saying is that the law is there. Some people have to adhere to it, some people don't. We think that people would look at it and, without any emphasis on doing anything, they would not do anything. We're not here saying that the groups are racist or they just want to be; we believe that people just look at things and they've been done it in one way and they keep doing it on and on. Unless something is done or some more specific guidelines are set out, certain companies and certain organizations would not move in any directions.

1700

We also like to say that the way some of the people in the positions sell employment equity, as members of OBTTO and a board member, and we discussed this, we think they sell the idea short of what it's worth. I can only speak on behalf of our organization and most of the black people we encounter, and I'm not going to say all, but we don't think the people we represent look at employment equity as an opportunity, basically, because most of the youths we talk to, what they're looking for is an opportunity. They want an equal opportunity. We're not here to say give us any special benefits or special conditions. We just say if a person goes for a situation, he should be judged based on his ability and his skill, not on his ethnicity or colour, and it happens and it's there. It's something a little bit subtle but it's there. So many people we have placed are just marginal, not people with great qualifications; it's the average grade 11, grade 12 incidents.

If you refer to my flyer, we have three situations of what people say, and I'll just to read from it: "OBTTO got me into the tile and marble training program through the guild. I'm happy with what I have learned so far and I've told friends to go to OBTTO...." That's Dennis Banton from the Tile and Marble Guild. That's by the person who attended.

The other one is, "I've always been interested in cars and I was out of work so OBTTO got me into the automotive training program at Centennial College where I am the only woman." Ismay Pascal; she did a two-year course with Toyota.

The other one is: "I'm a third-year apprentice with the bricklayers' union and their training centre put me in touch with OBTTO to work with black youth. I've been involved ever since." This is one of the first trainees we had out.

These are the types of things that we get people into and situations we get them. We get very much good feedback from both the people we placed and the unions we encounter.

Actually, some people refer to the equal opportunity as acting as a quota system. We don't think so, and most of the people we deal with we try to place in situations based on their ability and skill, and most people we talk to don't think that they want a job that they cannot—they may apply for a job they think they can do, but once you explain to them. Even within our own little screening system, when we try to place them into different situations or different trades—maybe they want to be a plumber. We have an opening for, say, a guy in bricklaying and you explain it to him and he says, "Well, look, I don't think I can do it, or I don't like that." In most cases, the person is willing to be placed in a situation that he's capable of and willing to handle.

Most of the people in the administrative, which is more a woman's area, feel offended when somebody thinks that they've been placed in a situation because of being female or being black or whatever. So I think when we hear some people talking about quotas, and I don't know who they represent or who they're speaking of, but basically we as a group don't think that's what we're about and that's what we try to instil in the youths or the people we deal with and we try to place. Most of the unions and organizations we deal with are very pleased with what we do. They highly recommend us and they seem to look to us first if they want apprentices because we do some percentage of screening and we try to get the person job-ready for the situation.

In the script I gave I didn't leave enough time for everybody to question. I'd like to read it. We all realize that the present legislation has weaknesses. However, it is a good starting point. We feel that all the time, resources and progress that have been made are going to be revoked. Systemic discrimination has been and is real. This cannot be denied or minimized. The equal opportunity plan which replaces employment equity will not be legislated. This raises a number of concerns for us.

I thank you for the time, and we hope that our voice has been heard and will be listened to.

The Chair: Okay, Mr Carter. We've got time for some questions. Ms Churley, we have about two and a half minutes each.

Ms Churley: I'd like to thank you for your presentation. Of course, I've heard of your group and your organization and I want to take this opportunity to congratulate you. I know that you've worked hard and you've made a lot of inroads.

I wanted also to thank you for, I think, your balanced and really fair presentation. I think that people really hate to be called racist, for good reason, and I think you're right that most people aren't, although there are some; we

know that. But you came to the issue of systemic racism or systemic unfair treatment and people not even knowing it, and I think you expressed very well how that happens to a lot of black people.

I would like to ask you, and this comes in response to—remember the Stephen Lewis report after the riots two years ago and the shocking revelations about how underemployed particularly black youth are among unemployed youth, which is also very high.

Given that our employment equity law is going to be repealed, what would you say to this government that it should be doing in the context of how it sees this as it has to be dealt with through volunteers? And what do you need from them to help you with what everybody agrees is a problem within the black community?

Mr Carter: We as a group intend to continue doing what we're doing. Like I said, what we think is that if there's no law and no legislation saying that you have to do a certain thing or go in a certain direction, then most of the groups will just continue on their merry way. Like I say, it's something that's imbedded and it's just an accepted situation. So if you just leave it, I see the new bill that they're trying to put in is going to say, they're going to sort of lean to, human rights. We have members of the group who have dealt with human rights, and you're talking about a two— or three-year wait. If everybody is going to wait that long to process a complaint of some kind, we'll be so far behind in the next four or five years, it just wouldn't make any—even if the decision comes in favour of the individual, we'll be too far behind. It's too much of a slow process, and you're still leaving the employer or the business without any guidelines. You may have guidelines, but they're not enforceable because it's up to them.

I must admit some of the companies, and I know a few, are going to continue doing what they were doing before it opened up eyes to the situation. So I say the government will have to look at it. What they're going to bring in in replacement of it is just going to leave it up to the company. I think that way we will be sort of going back to what we were before; and now that our eyes are open, what difference will that make? It will just be one step backward, I would think, from our position.

Ms Churley: In other words, you don't think what's being presented here is going to work?

The Chair: The next question is for the government. Mr Maves: I'll try to go quick here. I just applaud your going out in the community, as you said, and opening up some people's eyes, but there are some other people who have come in and testified and talked about outreach programs, and I think those are very valuable.

I just have some questions about tradespersons in general. As we're moving more and more to a service economy, are tradespersons representing a lower and lower proportion of the workforce or has that kind of bottomed out and is steadying itself?

Mr Carter: A tradesperson, obviously they're more related to construction and right now construction is a very low situation, so we are in problems in there. We are aware of that.

Mr Maves: Do you find success for the black community more in the non-union sector of tradespersons or the union sector? I know one's commercial; one is usually home construction.

Mr Carter: We deal with both areas and we don't really try to differentiate our jobs. We just deal with them on a one-on-one basis, and the ones we deal with, like I say, we have a good relationship with them and most of the people we place.

There's a twofold situation, because even in our situation, when we go to the youth and to the trades—it also goes back to the school. Some of these kids, especially in our society, what they're doing is what they call general education level, and only when they get to grade 10 or 11 do they realize that means that they're never going to be able to go to university, and some of the kids are very disappointed about that.

So when we try to redirect them in a place in the trades, most people think trades are a lower—you just find if it's low or high. Well, a tradesman makes a fair buck and all, if you're a five-year tradesman. When you point this out to the youths, some of them are amazed that there's such an opportunity in the trades area, because they figured they were lost by not going to university. So we think it also works both ways.

Mr Maves: Just quickly-

The Chair: Unfortunately we don't have time for your second question, or Mr Stewart's first question.

Mr Maves: Sorry.

Mrs Pupatello: Mr Carter, who funds your group?

Mr Carter: We fund ourselves, basically, and we are assisted by the government; different government agencies provide us with funds to do specific programs based on—like, we do trades in—

Mrs Pupatello: So government agencies fund particular programs you might carry on.

Mr Carter: Yes. And in connection with that, they would fund, say, 75% and we will fund 25%.

Mrs Pupatello: I have to hurry with my question because he'll cut me off. You mentioned when you first started that you don't believe that anyone should be any further advanced or get special treatment in terms of hiring. You said that when you started today. You said you don't expect groups to be given special treatment. Do you think that with Bill 79 there were groups that were getting special treatment?

Mr Carter: What's Bill 79?

Mrs Pupatello: The one that was in place, the Employment Equity Act.

Mr Carter: Oh, okay. We don't think that. We think it was just representing what society's all about. That's how we see it.

Mr Curling: Good presentation. Access to Trades and Professions, that wonderful report, said most people are being shut out. Do you think this government should immediately address that report that says we need more access to trades and professions?

Mr Carter: Oh, definitely.

Mr Curling: Good. The employment agencies have been found to be discriminatory many, many times, and I'm not saying that by myself; it's the Canadian civil liberties association. Do you think that if they find those employment agencies to be discriminatory, they should lose their licence?

Mr Carter: I see no reason why they shouldn't.

The Chair: Thank you very much. We appreciate you being part of our process and being interested in what's going on. A good presentation, and thank you very much.

Mr Carter: Thank you.

1710

JOHN BROOKS COMMUNITY FOUNDATION AND SCHOLARSHIP FUND

The Chair: Next is John Brooks, from the John Brooks Community Foundation and Scholarship Fund. Welcome, Dr Brooks. The floor is yours, sir.

Dr John Brooks: Job quotas are unfair, feed discrimination in the workplace. The Human Rights Code provides the foundation for equal opportunity in Ontario.

Equal opportunity is a good thing. It gives everyone a chance based on their qualifications, their capability to do the job, regardless of colour or race.

Business: Non-productive employees are costly to both business and government. Employers know that if they are going to gain a competitive edge in today's global market, they have to make use of all available resources—human resources.

Support the merit system, hiring and promoting by merit: The merit system recognizes people for their accomplishments, their qualifications and their capabilities

Encourage initiatives in education and training: This equal opportunity will be cost-effective if we have qualified staff to deal with.

I strongly support hiring and promoting by the merit system.

I'm open for questions now.

The Chair: You're open for questions now? Boy, that's the shortest presentation we've had so far. Okay.

Mr Clement: I have a quick one, Dr Brooks. Do you think there are ways that government can support the merit system and support equal opportunity without legislation?

Dr Brooks: Without legislation?

Mr Clement: Yes, without passing a law. Are there things government can do, other than passing laws, that could be supportive?

Dr Brooks: It's possible that they could do without passing laws, but to make it work successfully I suppose you have to put it in law.

Mr Clement: Or have a policy rather than a law?

Dr Brooks: Yes.

Mr Stewart: I couldn't agree with the gentleman more. I think it's just absolutely great. Much like the gentleman prior, who is looking for partnerships between trades and unions and all races, I think that's what Bill 8 is all about. I congratulate you on it.

I guess what I'd like to say is that the bill we're

proposing is based on merit and ability and not on special treatment, and I gather that's what you have said. Am I right or am I wrong in what you're saying?

Dr Brooks: You're right. I deal with a lot of young people and they are eventually going to be the future politicians, lawyers and doctors. I deal with an awful lot of them and I try to assist them for continuing education so they can get their fair share of the society.

I deal with hundreds of kids from right across the province, all the way from Manitoba, Montreal, who come down for the function I do, from all across Canada. I don't want to see, with all the effort we have put out over the years to help these kids, that there is no opportunity for them after they graduate. I would like to see something in place that will protect all these young people.

Most of the time the media makes us look as if all the kids are bad, but we have a group of kids—Mr Curling was at our last function. Sit and listen to them. We have a group of young people who are achievers; they're future doctors, lawyers, politicians. Our guest speaker that night was one of our students who's now graduated from law school. The one who introduced her has now graduated as a doctor and she's at Toronto General Hospital, through the program we have been doing.

These are the kind of things we are doing to try to make sure that our society reaches out to all our young people. People of all races are part of our program. It's not for any special race. It's for anyone who will apply themselves and has the ability to move on, and we try to assist them in that way, to make them better citizens for this country.

Mr Ernie Hardeman (Oxford): I just want to read for a moment from one of the presentations this afternoon. "As indicated in our opening statements, we are strongly committed to placing ourselves in a position where we are clearly seen as reflecting the diversity of our communities. In this regard we are acting in the manner of any business which plans strategically to be responsive to its clientele."

I haven't gone through all the presentations, but there was another one this morning that paraphrased the almost identical statement. In fact, the conclusion of both parties was opposite. One suggested that the only way this could be accomplished was through legislation and mandatory numbers to force someone to do that, and the other suggested that it be on a voluntary basis, that if it were good business, in fact business would do it. What would be your opinion on that?

Dr Brooks: If it's good business, business will do it. I agree with that, because business is always looking for good business to make more profit, and by making more profit, they make more jobs and more opportunities.

Mr Flaherty: I was pleased, Dr Brooks, that you considered achievers to be future lawyers and politicians, being both. It's not often we hear that.

In terms of education, do you have any specific ideas yourself about how we can improve the education system to create more job opportunities?

Dr Brooks: I do visit a lot of schools. I talked to a

group of grade 6 students, 50 of them, listening to what they have to say at grade 6. After I finished the presentation, the teacher asked them if they could write me a letter thanking me for coming. Two weeks after, I got 50 letters from the 50 students in the class, from various countries and backgrounds of the world. Every one of them was saying the same thing in their letters, grade 6 students from different countries of the world. They're all looking for exactly the same thing that we are all looking for: a place to live free where all expectations and opportunities are open for them. When I read some of them I almost cried, listening to these grade 6 students telling what the country and things should be like, and they're from different countries of the world.

Mr Curling: The John Brooks Community Foundation and Scholarship Fund is one of the organizations that gives a lot of young people an opportunity, and I want to commend you for the kind of work you're doing. I also hear you say, Dr Brooks, that having given those young people the opportunity to get an education, because one of the barriers they face is no funds, then coming out into the world, even though they have graduated—and I saw an excellent young lady who is a lawyer—they find it difficult to get into some of those institutions because they are systemically denied, because they're women, because they're disabled or what have you.

Let me put the question back to you. Although many of them have waited, with the effort you've put in and the many people in the community with their money for that education, and they are being systemically denied, don't you feel that sometimes we have to put laws in place to tell those companies they are discriminating and they cannot do that? Do you feel that legislation would be very helpful in breaking those barriers down?

Dr Brooks: I'm not so sure. If a person is qualified, there's no way you'll be able to stop them. But if they don't have the necessary qualification, legislation alone cannot help. The students I'm talking about, who are now doctors, lawyers, teachers, their qualification makes them that and you can't take that away from them.

Mr Curling: About eight of those young people came to see me yesterday. They are black lawyers and they're not getting in and they said they've tried everywhere. Many of them insinuated that they're women and they're blacks and they feel they're not getting through at all and are being denied. They're qualified. It is shown that many of the minorities, many disabled, are quite qualified but they have the highest unemployment rate within the system. Hat is causing this, would you say?

Dr Brooks: At this time the world economy is in a bad state. Until that can start to change, then more opportunities will be open for all of these people. But I look at what's happening around the world and I can see that we're still living in one of the best countries of the world right here. We should protect the system we have and help to encourage our young people so they find their rightful place in society regardless of colour, creed, race or wherever they come from, because they are the future of this country. We hope they will get that kind of support to be worthwhile citizens of this country.

Mr Sergio: You would make a good politician.

Mr Curling: You're saying, then, that they should wait until the economy is right, maybe when they're about 60, because the fact is that the economy won't right itself. I've been hearing the complaint of politicians that we're in a bad economic state for a long time. You say that if they wait a bit, they may get a job.

Dr Brooks: No, no. They should keep on improving themselves so when the opportunities come along, they're ready for them. I know the boys are going a little slow. There are five girls to every boy who is moving ahead. The women are going to eventually take over, whether you like it or not, because there are five of them to every one guy who is turning out.

Mr Sergio: I said you would make a good politician. I think you should run for the Conservatives next time.

Mr Curling: I've got 45 seconds, which I will use, Dr Brooks, to say to you that there are many people who have been waiting a long time. Education is a very important thing to tell the community and businesses that they cannot discriminate. But if, on seatbelts, we had waited just for education, people would be dying still. Legislation has caused a lot of people to be saved. Because we have seatbelt legislation, it has become natural today. So legislation, I would say, is extremely important to educate people also to the point of view that systemic discrimination is illegal.

The Chair: Mr Marchese, you stand alone to use up your time.

Mr Marchese: Absolutely. Dr Brooks, I have a problem with some of the comments that you are making and I want to try to get to them. I don't disagree with much of what you say. In fact, I agree with most of the points that you make on this sheet here. Even these Conservative members agree that there is discrimination and they also agree that there is systemic discrimination. They agree with that. You agree with that too, is that correct?

Dr Brooks: There's a percentage, yes. A small percentage of it is there and will always be there. You're not going to be able to stop it.

Mr Marchese: So, Dr Brooks, you think that discrimination is small, not large.

Dr Brooks: No, not large.

Mr Marchese: You're saying it's not pervasive either.

Dr Brooks: In some cases, but I think the majority of the people are trying to work together and to make things go well for everyone.

Mr Marchese: I want to bring to your attention some studies, because I referred to a Bank of Montreal study that was done in 1990—and I read that in the House—that pinpointed the discrimination that exists against women, the horrible perceptions they have about women in the workplace and the fact that there are so many women who work in the banks and so few of them end up in top positions. That clearly shows even in 1990 that we haven't moved very far in men's perceptions on women.

We have Judge Abella—who's a judge now; in 1986 when she did that report she wasn't a judge—but she produced a wonderful report which was the basis for the employment equity the Conservative government introduced in 1986 at the federal level, which concluded that there was pervasive discrimination and it was systemic and that we needed to redress that through legislation. In their form, employment equity was much milder than ours, but it was an employment equity bill, recognizing that we've got a serious problem.

There are a lot of groups that have come in front of this committee—women, people with disabilities, people of colour—who have said: "We've got a problem. We can't get our foot in the door. We don't get hired because of the way we look, because of people's perceptions about our ability as black people." Some of them are saying: "Voluntary efforts will not help us. We need something such as Bill 79 to redress injustice and inequity." Are you saying that everything is not so bad and we just need to get black people to get more degrees, although they have enough, many of them? Is that it?

Dr Brooks: I'm in favour of disabled people, that they should be well taken care of in this country, because it's not their fault why they are disabled. The society should look out for people like those and make sure they're well taken care of.

Mr Marchese: But Dr Brooks, black people are very qualified. We have looked at statistics that show that in spite of their overqualifications, as a community they're underemployed or unemployed. That leads me to conclude that there's something about how people hire that keeps them out, that shuts them out. That means we've got a problem. You're saying we don't have a problem, or maybe, yes, we have a problem but we just have to let people do it voluntarily. But I'm saying to you, the black community is overqualified but it's not getting hired.

Dr Brooks: But they won't be able to do that for much longer. It has to change.

Mr Marchese: Well, how?

Dr Brooks: That is why we are talking now, because we want the changes.

Mr Marchese: Yes, but they're saying that our bill, which talked about reasonable goals, encouraging employers with their unions to get together to break down the barriers and make sure there are enough of the designated groups who are represented in that workforce—that's what we tried to do. They're saying no, that's bad. We have to get employers to do that in their own way, voluntarily, because everybody thinks it's a bad thing, but we've got to get them to do it voluntarily. That's what they say on that side. Is that what you say?

Dr Brooks: No, but I know everything cannot be done in short terms, because you're dealing with a hundred different minds and each one has their own views, their own opinion, and it will take time to reach all the points that you want to make. But I'm sure it's going to happen.

The Chair: Thank you very much, Dr Brooks, and Mr Marchese. We appreciate your interest in our process. Have a good evening.

Dr Brooks: Thank you, sir.

1730

ETHNO RACIAL PEOPLE WITH DISABILITIES COALITION OF ONTARIO

The Chair: The next group is the Ethno Racial People with Disabilities Coalition of Ontario, the acronym is ERDCO. Representing them is Rafia Haniff, who is the chair.

Welcome, Ms Haniff. You have 20 minutes to use as you see fit. The questions, if you allow time for them, will begin with the Liberals.

Ms Rafia Haniff: Thank you very much for giving me this opportunity to appear before this committee. I'm here today representing the Ethno Racial People with Disabilities Coalition of Ontario, ERDCO. The members of ERDCO are people with disabilities who are from a wide range of ethnoracial backgrounds. We are a cross-disability provincial organization addressing the issues of ethnoracial people with disabilities. We are committed to promoting respect for ethnoracial people with disabilities of all ages, culture, gender/sex and religions. We are guided by the principles of anti-racism and accessibility. We are one of the fastest growing disability organizations, not only in the Metro Toronto area, but in the province of Ontario.

Our community experiences a lot of barriers. We have a lot of issues. Many of our members are unemployed, underemployed, underemployed, underutilized and they are actively looking for work. We face double and triple disadvantages in employment due to sex, race and disability and these factors compound each other and the barriers become even bigger.

Our hopes for finding jobs in this environment, with the repeal of the employment equity legislation, are gravely slim, due to these insurmountable barriers and lack of opportunities to contribute our diverse skills, abilities, knowledge and expertise to the community.

Over the long haul, people who have benefited the most from employment equity are in fact people with disabilities. For too long we have been kept out of the workforce due to a number of barriers we face: systemic, attitudinal or physical barriers.

Do you know what it's like to be stereotyped in certain positions and not given an opportunity in the field that you're qualified for?

Do you know what it's like to be denied a job because the office does not have a wheelchair-accessible washroom?

Do you know what it's like to be told that your foreign credentials that you're holding are worth nothing and they are not acceptable?

These are only some of the barriers that we face.

This is a very, very sad time for people with disabilities across this province. It's actually a tragedy for people with disabilities across this province. We worked extremely hard and long for the Employment Equity Act and with the stroke of a pen this government is taking this away from us. You stole our rights of levelling the playing field which would have allowed us all to compete for jobs for which we are well-qualified. What message are you sending to people with disabilities in this prov-

ince? That some people are better than others? That only those with privilege will survive? The Employment Equity Act supported the gradual integration of people with disabilities in the workplace through a comprehensive removal of systemic barriers. This government is now proposing to cancel 15 to 20 years of painstaking work that we have put in, in this legislation.

Goodwill and "We want to do it" from employers did not work for people with disabilities—and I want to underline that: It did not work for people with disabilities. Voluntary employment equity policies did not work for us. It took employment equity legislation, both at the federal and provincial levels, to generate real change. What we need is mandatory employment equity legislation.

We recommend that you reinstate the Employment Equity Act and/or—and this is the biggest challenge to the members around here—create a stronger piece of legislation to ensure that the rights of those who are most vulnerable are protected and restored in employment practices.

Let's take a look at systemic discrimination. The fact is that systemic discrimination exists. When complaints for systemic discrimination are resolved, it benefits all. A lot of people benefit when systemic discrimination is addressed. The Employment Equity Act allowed for removing systemic barriers through the employment systems review. This can be integrated into business plans gradually. Over time, it reduces the need for individual accommodation. Repealing the Employment Equity Act will set us back. With this repeal, we have to rely on the overburdened and inadequate Ontario Human Rights Commission to address issues of discrimination. We need a quicker route to a hearing stage for effective resolutions.

Our recommendation is to have an efficient, strengthened and accountable Ontario Human Rights Commission.

We are offended and insulted that the province of Ontario would call Bill 8 "An Act to repeal job quotas." The Employment Equity Act is not about job quotas and never has been. It is a sensible human resources business plan which is aimed at achieving a true representation of the diverse society over a reasonable period of time.

One of the areas of concern for people with disabilities is the area of support services. People with mild and moderate disabilities can contribute to society when, and only when, the necessary support services are in place: for example, accessible transportation like Wheel-Trans, attendant services, affordable housing and accessible day care. The removal of these barriers makes individuals more severely disabled and unable to function in society. This government, by cutting support services that are so vital in order for people with disabilities to actively participate in the workforce, is increasing our dependency on this government. This further marginalizes people with disabilities.

Another issue we would like to bring to your attention is the definition of "disability." Please, do not narrow this definition because it would result in many disabled people being disqualified for support services which we rely on and that is so crucial to our getting and keeping a job.

We recommend that you ensure that support services are in place for people with disabilities in order for them to participate in the workplace, and do not narrow the definition of "disability."

Under destroying information: Subsection 1(5) of Bill 8 orders "every person in possession of information from employees exclusively for the purpose of complying with part III of the Employment Equity Act shall destroy the information as soon as reasonably possible after this act comes into force." This forces employers who want to proceed with a voluntary plan to destroy the data and then resurvey for exactly the same information. This will definitely hamper many employers who want to proceed, especially in this time of financial restraint, due to the duplication of cost. If you see the value of voluntary employment equity—and I know you said there is virtue in voluntary employment equity—then I'm asking you to question why. Why do you ask these employers to burn the very tools they need to proceed with their voluntary plans?

This section also sends the message that information on barrier identification and elimination is to be feared and must be destroyed. Why? This is contrary to your own equal opportunity plan which purports to the endorsement of identifying and eliminating barriers.

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We recommend that employers who want a voluntary employment equity program should be allowed to keep the data they have collected under the Employment Equity Act and those employers who do not want to develop an employment equity program should destroy the information in order to protect vulnerable people in the workplace.

Just to summarize my recommendations:

- (1) That you reinstate the Employment Equity Act and/or create a stronger piece of legislation to ensure that the rights of those who are most vulnerable are protected and restored in employment practices.
- (2) That we have an effective, strengthened and accountable Ontario Human Rights Commission to deal promptly with complaints.
- (3) That your government ensure that support services are not reduced so that people with disabilities can use them in order to participate in the workforce.
- (4) That the definition of disability should be allinclusive and it should not be amended in order to deny people with disabilities the services they need.
- (5) That those employers who want to have a voluntary employment equity program should be allowed to keep the data they have collected under the Employment Equity Act and those employers who do not want to develop an employment equity program should destroy the information in order to protect vulnerable people.
- (6) That people with disabilities be encouraged and supported through policies and programs to obtain gainful employment so that they can help to decrease the government's deficit by becoming proud taxpayers.

The Chair: Thank you very much for your presentation. We have a short time for questions, beginning with the Liberal Party. You have about two minutes.

Mr Curling: I'll do it in two parts. I want to thank you for an excellent presentation and I just want to clarify something. Maybe the parliamentary assistant can clarify something for you. Is it the intention of the government to redefine "disability"?

Mr Clement: I think the deputant was referring to Community and Social Services and what qualifies for disabled and full welfare benefits at the level of the previous regime and what would qualify as being ablebodied and therefore would receive a reduction of 21.6%. Is that not what you were referring to?

Mr Curling: No. I'm asking you if the government intends, regardless of where they want to put it, to redefine "disability."

Mr Clement: I'm saying I think the context of the deputation was in relation to Social Services and I think the Minister of Community and Social Services has made it clear in the House that there has to be a definition of "disabled"

Mr Curling: When it comes to the human rights area or employment equity, there won't be any change in what they define as disability there, but only in the social programs you're talking about, the welfare?

Mr Clement: There's nothing in Bill 8 that refers to that particular issue. You're quite correct.

Mr Curling: So there would be no change to the definition of "disability."

Mr Clement: There's nothing in Bill 8 that refers to that issue.

Mr Curling: I just want to make it clear for you. We've got more time?

The Chair: You have about a minute left, sir. Very efficient.

Mr Curling: We're always very efficient in this. You've said that it needs a stronger legislation. Are you saying that the legislation should be even stronger than 79 itself?

Ms Haniff: Oh, definitely. If they can come up with a legislation that would protect the rights of the designated groups and employment practices, that's what we want. Because we can be qualified as we want to be and we can have all the credentials and all the qualifications and we will not reach the age of 60 before we get it. We will die before we get into the workplace because of the barriers we are facing.

Mr Curling: Do you have confidence in the Human Rights Commission to carry out this job?

Ms Haniff: No.

The Chair: Thank you very much, Mr Curling. You've used up your minute.

Mr Marchese: Sam Savona, a person with a disability, came in front of this committee and talked about some of the problems he has faced over the last 10 years. He said in his search for work in 10 years under an equal opportunity approach he found one day's work. My feeling is that merit in a market-driven economy will

disappear. It means people with disabilities will continue to suffer the same fate that people like Sam Savona have suffered for 10 years.

Their answer to this whole issue, the Conservative answer, is an equal opportunity plan, the one we've had prior to Bill 79. Do you believe that voluntarily people like Sam Savona, people like yourself and others, would be able to have any chance at getting those jobs that you've been desperately looking for for many years?

Ms Haniff: We have seen that voluntary employment equity programs do not work for us. There's no enforcement. This repeal of this legislation gives employers the right to discriminate. They don't have to come up with a strategy to ensure that over a period of time my workforce is going to be reflective of the community, and not only being reflective of the community but breaking down the barriers that prevent us from getting into the workplace, and that is the crucial thing for people with disabilities.

Look at America. We have the Americans with Disabilities Act. What do we have here? We're moving backwards instead of progressing. What's happening?

Mr Marchese: They got elected.

Mr Clement: Thank you for your presentation thus far. You say in your presentation that, "The Employment Equity Act is not about job quotas and never has been," and yet there are requirements under the act for the government—not business, not employers but government, to set numerical goals and there are fines in place in that piece of legislation if those goals are not met. Does that not strike you as job quotas?

Ms Haniff: No, definitely not.

Mr Clement: Can you explain the difference to me? I'm a bit perplexed.

Ms Haniff: Okay. What you're doing is developing a goal. Like a salesperson, we develop goals. If you want to achieve something, you develop goals and you work towards those goals and I see it the same way. It is about developing goals. Quota is a fixed thing. It's like, okay, we're going to get a fixed number in no matter what. Setting a goal is something that is depending on different—it's not a forced thing. It's something that comes in consultation with. It's not forced onto the employer, and I see it very differently. We have to attach accountability and enforcement or else it would not happen. It would be useless.

Mr Clement: Do I have more time?

The Chair: You've got about 30 seconds, if you've got a straight question. Nobody else had their hand up.

Mr Clement: Jim might have a question.

The Chair: Can you do it in 25 seconds?

Mr Flaherty: Sure I can. I was following along and the member for Riverdale, Ms Churley, had indicated earlier this afternoon that most people are not racist in this society, and I agree with her. Do you think that the problem here is a discriminatory problem as opposed to an equity problem?

Ms Haniff: There are a number of problems and it gets very complex. What I'm saying is there is systemic discrimination that exists.

Ms Churley: That's what I said too.

Ms Haniff: It's not intentional in some cases—

Mr Flaherty: No, you said most people are not racist. I marked it down.

Ms Haniff: It is not intentional in some cases, but it's the adverse impact that it has on the designated groups that makes it become discrimination.

The Chair: Thank you very much. We appreciate your presentation this afternoon, Ms Haniff.

COALITION FOR LESBIAN AND GAY RIGHTS

The Chair: The next presenters are the Coalition for Lesbian and Gay Rights, Nick Mulé. You have 20 minutes to use as you see fit. There are questions, and if you allow time for them, we'll begin with the NDP.

Mr Nick Mulé: Thank you. I'm one of the spokespersons and directors of the Coalition for Lesbian and Gay Rights in Ontario, also known as CLGRO.

The coalition has been lobbying in favour of basic principles and tenets of employment equity since 1990. In October 1991, we published the brief, We Count, calling for the inclusion of lesbians and gay men in employment equity legislation. This inclusion would be in regard to the qualitative measures of the act, and note that is "qualitative" and not "quantitative." Qualitative measures of the act would be dealing with employment recruitment, interviews, hiring, work environments and promotion opportunities. To our disappointment, in September 1994 the former NDP government legislated employment equity, failing to include us in either the act or the preamble.

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Because of this exclusion, Bill 79 was seen as flawed by CLGRO, yet a first step towards potential future inclusion. We were promised an opportunity to continue dialogue with the government of the time, and thus an employment equity working group was struck consisting of members of CLGRO and staff of the Employment Equity Commission's office.

We are extremely upset and very concerned about the current government's views of and intent towards employment equity. The following points are the basis of our disagreement with what's being put forth:

We find it insulting to relabel the legislation as the quota law, as quotas clearly do not factor in this act.

The impression that merit needs to be restored fails to recognize the very importance merit plays in the current act itself.

By repealing this act, any teeth that existed to address some inequities in the workforce are effectively pulled. In other words, without legislation, any attempt to develop a level playing field is seriously remote.

Employee equity was unique in that it addressed systemic discrimination. The current functioning of the Ontario Human Rights Commission is not designed to deal with that. Thus you will be overlooking major areas of institutionalized discrimination.

If you do get rid of this act, which we believe you will probably go ahead and do, we just wanted to make it clear that to us, for gays, lesbians and bisexuals across Ontario, it's a very serious loss of opportunity to try to get our issues recognized in the workforce.

We were very upset with the last government that they were not able to see that and include us, yet it's very obvious to our communities that we are very much in need of protection in the workplace because discrimination against us is running rampant.

We also feel that the issue around the issue of merit, the issue of calling it a quota law, it makes me wonder if when this act was read by the current government whether you had any comprehension of what the act was stating or whether it was right at all, because it clearly points out that merit has to be an important factor in anyone that you will be considering for a job. It's not an issue of quotas, it's an issue of goals, it's an issue of targets that's worked in relationship between government and employers.

Those are just some basic tenets. Without this, without legislation, we really question whether people, either intentionally or non-intentionally or from the goodness of their hearts, are going to be committing to trying to make sure that there's a level playing field.

We will continue to fight for this. We, like I stated, really agree with the basic principles of the act, but we felt that the act as it currently stands needed to go further. We felt it needed more teeth on the one hand, and it needed to encompass far more designated groups than the four that were put forth.

The Chair: Are you available for some questions then? We've got about four and a half minutes per party, beginning with the third party.

Mr Marchese: We welcome you here. I agree with you or at least I'm sympathetic to your point about gays and lesbians being left out of Bill 79. I was one of those that would've liked to have seen the inclusion of gays and lesbians in that bill. Unfortunately, it didn't work out.

But I know that the gay and lesbian community suffers the same discrimination in employment as these other four groups that have been designated and that that discrimination needs to be dealt with. One wonders about this government and its position in terms of being able to deal with matters as they relate to gays and lesbians, but we'll wait and see. Perhaps they'll be open to that some day.

But on this very issue, Bill 79 and how it relates to these designated groups, we've had a Human Rights Code for about 30 years, and it says in part I:

"Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap."

The Conservatives say: "Bill 79 is bad. We know that there is systemic discrimination and we want to go back to that old system of equal opportunity and the Human Rights Code."

We've had the Human Rights Code that tells you exactly what shouldn't be happening in society, but in our view and in the view of many who have appeared before this committee, that approach hasn't worked; that

the Human Rights Code, although it's nice and it works for some people, it fails a lot of people and it doesn't deal with systemic discrimination. So we know it's not the answer. We know the voluntary approach hasn't helped these groups because they keep on coming back saying, "We need something in order to achieve equity."

Is it your view that the voluntary approach might work, could work, if maybe they put a little more money into education; if maybe they go out and talk to employers to be nicer to these groups? Do you think that that might work or that we might achieve some equity down the line if we follow that trail?

Mr Mulé: We have no hope in that because as grassroots organizations, the coalition included, we've done all we could on shoestring budgets to educate the public. Those who choose to be educated will get that education, and those who choose not to hear it or see it just won't.

Mr Marchese: So it would be a problem?

Mr Mulé: It would be a major problem.

The Chair: Okay. The government party, any questions? The official opposition, any questions?

Mr Curling: I'm not surprised at all that the government has no questions in regard to the situation. Everything is a perfect world for them as long as it doesn't affect them.

The fact is that I, for one, agree in the sense that systemic discrimination should be addressed to the five designated groups. I say "five," but that five was the francophones itself.

I see your group itself being discriminated, of course, consistently. I think there should be more awareness and understanding of gays and lesbians and bisexuals, and I don't think our society has reached the situation of fully understanding. A lot of education has to go on about this. I think we are progressing a bit on this level; a bit more.

My question is put to you: With the Ontario Human Rights Commission, is it adequate to address your concern, or is it that they are inadequate in the sense of—in other words, let me just put it quickly—that systemic discrimination is being addressed outside of that, and although they have systemic discrimination in the Human Rights Commission they fail miserably because they have no resources? Is it lack of resources of the Ontario Human Rights—if you were to answer in the negative—that they are not able to do that? Is it lack of resources or is it the wrong place to address your concern?

Mr Mulé: I would say it's a lack of resources. I think that's the very point of why the former government brought forward employment equity legislation, because it was recognized that systemic discrimination couldn't be adequately handled by the Human Rights Commission enough. That's why it was the next step they took and, in effect, it was the first step. That was the attitude taken by the government, and we were willing to work with them to keep trying to improve what was put forward so that we could get to the point where it would equal playing through and through.

So to answer your question: You're right, it was a lack of resources and, as a result, it was problematic. To take this act away now means that there will be nothing. If people turn to the Human Rights Commission, anything that has to do with systemic discrimination won't be adequately addressed.

Mr Curling: Let me ask the parliamentary assistant then, because I think he'll be looking at the Human Rights Commission very soon. Is there a point when you're going to address the gays and lesbians in the Ontario Human Rights Commission, giving it adequate resources to address the discrimination that's being practised now against gays and lesbians and bisexuals in our society?

Mr Clement: Well, as you know, discrimination on the basis of sexual orientation is prohibited in the legislation, and we want to ensure that the Human Rights Commission has, in a reformed state, the ability to do its new job properly.

Mr Curling: So you will be giving it enough resources then to address the gay and lesbian concern in our society, as you have also identified that there's a lack of resources in the Human Rights Commission to do that? That will be done through that ministry?

Mr Clement: Certainly it should have the resources necessary to do the job as mandated by the government.

The Chair: Thank you very much, Mr Mulé, for your presentation. We appreciate your interest and involvement in our process.

Mr Mulé: Thank you, and I will just state that the silence on the part of the government will be noted by our movement. Thank you.

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NOBODY'S NON-DESIGNATED GROUP CANADIANS

The Chair: The next presenter is Anthony Nolan, representing Nobody's Non-designated Group Canadians. Okay, Anthony, you have 20 minutes to use as you see fit. The questions would begin with the government party when you're finished. The floor is yours, sir.

Mr Anthony Nolan: I'm a little bit nervous, so you have to bear with me this evening. I apologize for my appearance, as I came straight down here from work.

Nobody's Non-designated Group Canadians: The government defines us by who we are not. We are not homosexuals. We are not lesbians. We are not paedophiles. We are not ethnics. We are not visible minorities. We are none-of-the-aboves. So when you fill out a government form and you get to the bottom of the page and you're not on it, you tick off the box that says "None of the above," and that's a very bad feeling to have to do that.

We define ourselves by who we are. We are just Canadians, that's it. The end of government discrimination should not signal the beginning of private sector discrimination. At least when the government was doing it to us we knew what was going on. If each individual company can set its own hiring quotas for all the various designated groups, no one's going to know what's going on, and no one will be able to regulate it.

No man's fate, possibilities in life, should be determined at the moment of birth. Men and women should themselves decide who they are, what they can or cannot become. Men and women succeed or fail based on their

own individual efforts, not some white-collar neo-Nazi in some alleged human rights bureaucracy.

Now, at this point I'm going to digress and give you two personal anecdotes. As you know, this sort of legislation impacts on the lives of ordinary people. When I say "ordinary," I don't mean that in a pejorative sense, just regular people who work and who just live their lives.

One of our members—and we're not a formal group; we don't get money from the government; we don't have directors of this or chairmen of that—is a postal worker. He's been a postal worker working on the front counter at one of the postal substations for a number of years. He had arrived at a point in his postal worker career where it was time for him to be promoted to be a supervisor. He was told in no uncertain terms—this person is a nondesignated-group Canadian—that people like him would never be promoted to be supervisors. He's going to be on that counter for the rest of his working life at Canada Post. He's got so many years in, he can't just walk away from a job like that. But the sort of feelings that engenders in an ordinary person, to know that because of an accident of birth he'll never be promoted by his employer, it poisons a work environment when people know that.

The second anecdote is about a young, 19-year-old guy here in Toronto. He wanted to be a policeman. He went down to the police, he applied, did all this paperwork. They told him—now, I'm going to have to use a word, and I apologize beforehand, but this is the word that was said to him—he was told to fuck off and come back in the 21st century, because they don't hire people like him right now: young white guy. He's never going to be a cop. That creates very bad feelings inside him.

Don't punish non-designated groups, Canadians, for an accident of birth. There should be no special privileges for any group. No matter how much they whine and complain, they must learn to cross the street without some civil servant holding their hand. Non-designated-group Canadians built this country. We fought in its wars and we died in Canada's wars in our tens of thousands. We demand nothing from the government. We demand that you give us nothing, only leave us alone to live our lives. That's the end of my presentation.

The Chair: Okay, Mr Nolan, are you available for some questions?

Mr Nolan: Yes, sir.

The Chair: Okay, we'll start with the government party. We have about four minutes each, so do we have any questions from the government party? Okay, we go to the opposition.

Mr Curling: I have no questions.

The Chair: No questions? Mr Marchese from the third party.

Mr Marchese: Mr Nolan, I think we're all Canadians. We're all just Canadians.

Mr Nolan: Not under the employment equity, we're not just all Canadians; some people are more special than others.

Mr Marchese: Okay.

Mr Nolan: Those people under the legislation passed by your government had quotas.

Mr Marchese: I understand.

Mr Nolan: That's a very bad feeling to know that no matter what you do—

Mr Marchese: I've got a few questions.

Mr Nolan: Okay.

Mr Marchese: Do you believe there's discrimination against people of colour?

Mr Nolan: I think there's discrimination against all people.

Mr Marchese: Do you believe there's discrimination against people with disabilities whenever they try to get their foot in the door to get hired?

Mr Nolan: You know, I took a taxi once. The streetcar broke down; I had to get to my job right away. The guy who picked me up in a taxicab—this was late at night; I was working on the docks in Toronto—pulled up beside a doughnut shop and he said, "Just wait here," and he told me, "Don't steal my cab." I said, "Okay, I won't." He was just joking. He got out and I saw him waddling to the doughnut shop and he had braces on his legs. Now, there's a guy obviously with a disability. He can't walk. He's working. He's making his own way in the world.

Mr Marchese: I understand.

Mr Nolan: Now, I wonder what it must have felt like for him to go to companies and have to waddle in the door with braces on your legs. It must feel really bad. It's tough enough looking for a job when you're just a regular person, but for that, I think that would take a lot of guts. I respected him. That's a man that I felt, "There's a real man."

Mr Marchese: I know. A lot of people with disabilities have come in front of this committee. Ms Rafia Haniff was just here today and another person yesterday. Many others have come and will come to the hearings and they're saying, "We're not getting the same opportunity to be hired because of the way we look and because of the way we sound." They're saying because of their long years of experience looking for work, they're not getting it. They're saying there's discrimination against them. Black people say the same thing. Aboriginal people say the same thing. Women, all of these groups who build this country, like you and me, have been saying they are not getting the same opportunities to be hired and to have chances at advancement in those jobs. Are they wrong, or is it they are discriminated against, but we whites are too, so we're all discriminated against? Is that the problem?

Mr Nolan: I don't think I ever applied for a job that anybody who's a lawyer would want to apply for. So I never had a job that was something that other people would want. I never had a career. People like us, we just work. We don't have careers; we work. We make our way in the world and we don't ask anybody for anything. All we ask is to be left alone. If I get a job or don't get a job, then you know what? I go on to the next company and I apply there.

Mr Marchese: But that's what they're doing, you see? Black people are doing that, people with disabilities, aboriginal people.

Mr Nolan: I don't know if I've ever been discriminated against. I just didn't get the job. I didn't think about it. I just went on to the next company, and that's what you do.

The Chair: Okay, thank you very much, Mr Nolan, for your presence here. We appreciate your interest in the process.

Mr Nolan: Thank you very much for this opportunity.

BILL OWEN

The Chair: Is Mr Owen here? Okay, Mr Owen, you are our last presenter for this evening.

Mr Bill Owen: I thought I actually had some more time, so I gave my address to somebody to copy and they haven't returned with it yet.

The Chair: Well, we can wait a few minutes till they come back. Oh, is this her back?

Mr Owen: Yes.

The Chair: Okay, basically you have 20 minutes to use as you see fit. If there are questions at the end, we would be starting with the Liberals. So the floor is yours, sir. We appreciate your attendance.

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Mr Owen: Right. I'm pleased to have the opportunity to address the committee on this legislation. I hope the government will reconsider it and withdraw it. I think the Employment Equity Act is necessary for the employment of people with disabilities.

What I would like to do in my time today is, first, to address certain myths that seem to have arisen concerning the employment of the disabled, and then to provide reasons why I think the existing legislation should be retained.

First, I want to speak about whether another possible route of achieving the goal of employing the disabled is through public education. The problem is that this route has been tried before, through "Hire the Handicapped" campaigns, and they did not make inroads into the unemployment problem. Because such voluntary measures did not work, other approaches such as the legislative one had to be tried.

Second, there seems to be a belief in the public that individuals are now good-hearted and do not discriminate against the disabled in employment. The facts suggest otherwise. The most recent Statistics Canada report on the employment of college and university graduates shows that the disabled were less likely to be hired than the rest of their classmates.

Given this situation, previous governments, not just at the provincial level but at the federal level, recognized an important truth stated earlier today: Attitudes may never change but behaviours can change. The most appropriate way to change behaviour is through legislation.

On the subject of whether incentives such as subsidies and tax incentives for employers hiring the disabled should be tried, I think they too have proven to be a failure. However, the essential reason for not going that route is that such an approach demeans qualified disabled workers.

I would like to state now why I think the Employment Equity Act should be retained.

First, it deals with the last major obstacle preventing the disabled from being considered full-fledged members of society: employment in the workforce, which enables us to be seen as contributors to society. Other obstacles in society, such as inaccessible buildings and a lack of public transportation, have been rectified to a great degree, but we live in a society that values work and we want to work as well. I am bothered, therefore, by the image of the disabled conveyed by the government. While I appreciate that the welfare benefits of the disabled have been protected, I think that other acts such as the cutbacks to Wheel-Trans and the repeal of the employment equity legislation act against the best interests of the disabled.

Second, the employment equity legislation helps to change the culture of the hiring process that prevailed. I am referring to the systemic discrimination that resulted from word of mouth and other networks on job information that typically excluded the disabled.

Third, the requirement of representativeness ensured that applications from persons with disabilities were not only read but taken seriously. I think a major obstacle facing the disabled is that their abilities are underestimated. I have concluded that contrary to public myth disabled applicants are not scrutinized and given jobs without close consideration, they have been looked at only too closely in order to find a reason for not hiring them. This results from the habit of employers conceding certain work requirements to applicants similar to themselves without testing the applicant. But an applicant who is different rarely receives any of these concessions given automatically to others. I think this extreme scrutiny meant that it was harder for the different candidate to get the job.

Fourth, the Employment Equity Act ensured that no employer would suffer innovation costs. If all employers were required to comply with the act, then no employer would have a cost disadvantage by introducing an employment equity program. Thus the employers who wanted to institute programs of the sort could move ahead with confidence that this was a socially recognized program.

Fifth, I think it is important to recognize the diversity of the population and realize that people who are different have to be taken into the workforce at all levels. Toronto's population is multicultural—in a sense, I'm distinguishing in a way from the rest of the province—yet it is very difficult to perceive that looking at the composition of the executive appoints published daily in the Globe and Mail Report on Business.

In closing, I urge the committee to give serious consideration to the real merits of the employment equity legislation and withdraw Bill 8.

The Chair: Thank you, Mr Owen. We have a little time left for questions, about four minutes per party, and we start with the opposition, Mr Curling.

Mr Curling: Thank you for your presentation. I presume we've all recognized that there is discrimination in our society, and not only discrimination but it is done in a systemic manner. You have also identified that the diversity leads us to be even more extra sensitive to people who are differently orientated or of a different culture, so to speak.

In the Ontario Human Rights Commission it is stated that 50% of the cases in the Ontario Human Rights come from the government itself. So one of the greatest loads or the area that has more discrimination complaints being addressed is coming from the government itself. Were you aware of that?

Mr Owen: Yes.

Mr Curling: In the meantime, the said government that is taking away legislation is unable to—would you say fails to educate their people through a voluntary way that they should not discriminate? Would you say the voluntary way then has been a failure to educate people about discrimination?

Mr Owen: Yes, that was the old method. I mean, in a sense the concept of systemic discrimination was developed to recognize that those campaigns were not working, and in a sense systemic discrimination is a polite term that I think was meant to introduce measures necessary to in fact ensure that the disabled and others would receive fair consideration of their applications.

Mr Curling: Considering that this government believes in the carrot method more than the stick, as they would put it, would you be impressed if this government—they hate the word "goal"—put a goal where that within a year they would eliminate 50% of their cases, settle 50% of their cases in human rights, because it's easier to handle if they are the employer? Would you be impressed if they go on a program like that, to say, "Within 12 months we'll reduce our caseload, our discrimination cases before the human rights commission by 50%?" Would that impress you?

Mr Owen: Yes, it would. I'd wonder how it was done. I guess I'd like to know how it was done or how it's going to be approached, but I think one of the things you know as well is that a number of the complaints that have gone to the Human Rights Commission have in fact come from the disabled.

Mr Curling: I need this for my education. I've been dealing with human rights, with employment equity for maybe about 30 years. Do you feel that society understands what is meant by "systemic discrimination?"

Mr Owen: No, I don't think so.

Mr Curling: Do you feel then that this might be the problem we have? Because within this committee my colleagues oftentimes refer to discrimination and not really—I don't want to say "understand," but not really address the issue of systemic discrimination. Then that comes to people in the disabled community to realize that you may be qualified or you are qualified and have all the attributes for performing a proper job but access to the building is not there, and they don't see that as a systemic discrimination.

Mr Owen: I think the main problem is that most people don't consider the disabled within the ordinary population, and the best example of that is that when employment equity legislation was introduced a number of politicians said: "We're going through a recession. We can't implement this now." In a sense, what you're really saying is, "We've got to wait somehow until things get better and then we're going to do it," but the disabled have been hearing this for the last 20 years, and that includes the period of the 1980s, which in fact, I think anybody would agree, was a boom time. So even then we were getting the excuse.

I think once society recognizes and accepts disabled people as within the population, then we'll get serious consideration on this matter and every other matter. But I think it's going to be a while before then. There are all kinds of examples of that, of the disabled considered somehow adjuncts to society rather than as a part of society. I'm a person who suffered a disability in the middle of my life, so I was quite aware of the change of attitude that non-disabled people have and the disabled have.

The Chair: Mr Marchese, did you have a question?

Mr Marchese: Of course.

The Chair: Surprise, surprise.

1820

Mr Marchese: Mr Owen, it's good to have you here. I'm troubled with what's happening with people with disabilities and what's going to happen to them, and, second, because I believe in a way, by repealing bill 79, people with disabilities in particular will be abandoned.

They might argue, "No, that's not true." My sadness is based on a reality of what you had to face in the past, and Sam Savona and others came in front of this committee and said: "It's hard for us to get hired. It doesn't matter what we do, it's difficult because of the way we look, because of the way we sound." He found one day's work in 10 years. I am sure that many people feel that they're very capable, that it's not that they don't have merit or qualifications, but that their disability keeps them away from work.

In a market-driven system, merit will disappear because the bottom line is that if a company wants to make money, they're not going to accommodate you because it'll cost money. They will get to the person they want quickly and forget about the person with disabilities. That's my fear for you and the community that you're part of. I'm not sure that their answer is going to work. I'm not sure going back to an equal opportunity plan, which we've had before and which we're going to get to, will help us, because they say, "We're going to come to a system, a universal system where we end discrimination." Well, if that system is like the one we've had in the past—and it is—then we're in trouble. It means the people who've always been discriminated against will continue.

How do you deal with that? How do people like you deal with this ideal plan that they have where it is non-discriminatory, which is a plan that will make sure that all of you will be treated equally? How do you feel about such a plan?

Mr Owen: I guess I feel very saddened because I think that, as you suggest, we're going back to the old ways. I think that we do have a Human Rights Code now that will, to some extent, mitigate that, but it's not going to really deal with any attempt to recruit the disabled. Again, I think the real benefit of the employment equity legislation was that employers had to take the applications of disabled people seriously.

My own anecdote is that when I graduated from Queen's with an MA, I wrote two letters to see what the lay of the land was. This is back in 1968-69. I wrote two identical letters with one difference: that I was in a wheelchair. Within a week I got a phone call from one institution offering me a job; I never heard from the other institution. Now, that's back then in those days. Granted, there are more things in place since then, but I don't want to go back to those days.

What bothers me more than anything else is that the bill repealing the legislation encourages attitudes out there. In other words, I really feel that at the heart of this is a feeling out there that we've given too much to the disabled, and yet the employment rates are still very low. The bill just encourages people not to take applications seriously. They know, and you know, the number of complaints that are lodged at the Human Rights Commission, so that any justice you get is incredibly slow. You will get justice presumably, but it will be very slow.

Mr Marchese: But that's part of the-

The Chair: Thank you, Mr Owen. The time is up, Mr Marchese.

Mr Marchese: Four minutes?

The Chair: Yes, it was a nice long question and a nice long answer, and yes, the four minutes is up.

Mr Stewart: Just a couple of quick questions, and I may not be able to express it the way I want to, but do you feel that the discrimination against the disabled is more because of access than because of their disability?

Mr Owen: Oh, I think it's more because of their disability.

Mr Stewart: We keep talking here today—a lot of people are saying they can't get jobs because they don't have access to the businesses, or whatever. If there were concentration on access, do you feel that could help solve some of the discrimination, if there is, against the disabled?

Mr Owen: I think that to a great degree access has been improved. One of the things I stated was that there have been great governments; the Bill Davis government and the Peterson government have in fact done a lot for the disabled over the years in terms of a building code, in terms of public transportation and a number of other measures that have ensured that you can get to work. Now, I know there are complaints and Wheel-Trans has been cut back, but there is a sense that at least society recognized the fact that the disabled, like others, had to have public transportation, they had to be able to get into buildings.

Now, you're still going to have all kinds of employers who are inaccessible and are not going to want to renovate their washroom and so on, and yet—

Mr Stewart: If we help them do it, if this was a program, is that a way that could help? That's my question, that there's a better way to solve the discrimination against the disabled.

Mr Owen: I think one of the things that was really done that helped the disabled was that they did not have to identify. My own little story shows that if you identify you're disabled, your application is thrown out. If you have an application form and you don't have to identify you're disabled, at least you'll get to the interview stage and then you've got a prima facie case for discrimination if you don't go further.

The point is that I think it's the image of the disabled in the end that's important, but I think all of these things will start to have employers recognize the capability of the disabled. As I say, I think this is the last difficult hurdle we have, is being recognized as serving as potential employees in businesses or any other venue.

Mr Stewart: I guess my point is let's solve the accessibility and then we can really go to the merit and ability part of it.

Mr Owen: You see, I think the processes are already in place. You have a building code, you have transportation. What you're asking is something about retrofit

programs that will in fact force people to change the buildings so they're accessible. That can be done at the government level. I think you'll have a harder time forcing private businesses to do that. I mean, if you think they're going to complain about the cost of hiring a disabled person, think about the cost of putting ramps into their existing buildings and so on. I think retrofit's important and I think it has to be done in quasi-public institutions, but I think it's more difficult to do that retrofit at the private level.

Mr Stewart: But it would help.
Mr Owen: Oh, it would help, sure.

The Chair: Thank you very much, Mr Owen. We appreciate you participating in the process for us and for your presentation. Have a good evening.

There are just a couple of housekeeping things before we leave. Mr Marchese is anxious to get going someplace. First of all, my compliments to everyone on the committee for allowing the process to move ahead; I appreciation your cooperation. We meet again on Thursday morning, on November 23, at 10 am, and that day we go till 10 o'clock that night, and it is totally booked till 10, so bring your lunch.

The committee adjourned at 1828.





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First Session, 36th Parliament

Official Report of Debates (Hansard)

Thursday 23 November 1995

Standing committee on general government

Job Quotas Repeal Act, 1995

Assemblée législative de l'Ontario

Première session, 36e législature

Journal des débats (Hansard)

Jeudi 23 novembre 1995

Comité permanent des affaires gouvernementales

Loi de 1995 abrogeant le contingentement en matière d'emploi

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 23 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 23 novembre 1995

The committee met at 1004 in committee room 1. JOB QUOTAS REPEAL ACT, 1995

LOI DE 1995 ABROGEANT LE CONTINGENTEMENT EN MATIÈRE D'EMPLOI

Consideration of Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

The Chair (Mr Jack Carroll): Good morning, everyone. I appreciate everybody arriving close to on time this morning. Since we have a long, busy day ahead of us, we'd like to get started.

REGIONAL MULTICULTURAL YOUTH COUNCIL

The Chair: Our first presenter this morning is Aaron Goldstein, the press officer with the Regional Multicultural Youth Council. His written brief has been handed out. It's in front of you at your desk along with a couple of other briefs from some groups that will not physically be here but wanted to express their opinions.

Mr Goldstein, you have 20 minutes, sir, to use as you see fit. Any time that you leave for questions at the end of that—you do have 20 minutes—will be divided evenly among the three parties, starting with the official opposition, the Liberals. The floor is yours, sir. Welcome.

Mr Aaron Goldstein: Let me begin by thanking members of this committee for allowing me the opportunity to express our organization's point of view concerning Bill 8. My name is Aaron Goldstein and I serve as the press officer of the Regional Multicultural Youth Council, the youth wing of the Multicultural Association of Northwestern Ontario, which is based in Thunder Bay.

For those members who want a little more information about our organization, you'll find a number of our activities on pages 1 and 2 of your brief. I will say that we have been active in a number of issues in the areas of education and training, labour, criminal justice and public safety and workplace discrimination, among others. So indeed we have been active on the issue of employment equity.

We are and continue to be supportive of the employment equity measures taken on at the federal level by the Progressive Conservative government during the mid-1980s and more recent measures taken by the present Liberal government. MANWO's support for employment equity extends far back, since its inception, when the Progressive Conservative government of Bill Davis initiated the first affirmative action programs in the

province. We have consistently supported equity measures taken by Progressive Conservative, Liberal and NDP governments

It should then come as no surprise to members of this committee that we do not support the direction the government is taking with the proposed piece of legislation. We strongly supported the employment equity measures initiated by the previous NDP government, particularly because the legislation included both the public and private sectors and because of the incremental and decentralized nature of the drafting and implementation of employment equity plans.

We participated actively in the consultation process set up by the previous Minister of Citizenship, the Honourable Elaine Ziemba. On August 19, 1993, I, on behalf of the RMYC and MANWO, had the opportunity to speak before the standing committee on administration of justice, which was chaired by the honourable member for Fort York, to support Bill 79, which was to eventually to become the Employment Equity Act.

We of course are not surprised by the government's direction in policy. The intention of the Progressive Conservative Party to eliminate the Employment Equity Act was stated very clearly in the CSR and strongly emphasized during the provincial election campaign late this past spring. Clearness of mind notwithstanding, we nevertheless believe that the governing party's arguments cannot go unchallenged.

When the Minister of Citizenship, Culture and Recreation initiated second reading debate on October 26, she argued that the Employment Equity Act, as well as equity initiatives in the Education Act, the Police Services Act and the Ontario Human Rights Code, were "unnecessary," "unfair," "ineffective" and "costly." We take strong issue with all four of these assertions.

The minister argued that employment equity was unnecessary because "discrimination is already against the law under the Human Rights Code." Does the minister mean to say that because race is a prohibited ground of discrimination in the code, racism no longer exists? The minister further argues: "The code guarantees all Ontarians the right...and freedom from discrimination.... We firmly believe the commission is the appropriate vehicle for dealing with complaints of discrimination."

While we would certainly agree that the Ontario Human Rights Commission is an appropriate vehicle for dealing with complaints of discrimination, we would also argue that the commission can only adjudicate remedies on a case-by-case basis and that its mandate goes beyond

the scope of the workplace. Therefore, a separate governmental body is necessary to facilitate the surveying of the workforce, the identification of barriers to employment and the drafting and implementation of employment equity plans. The Employment Equity Commission would have acted as both a proactive and a preventive instrument that would have enabled the workplace to avoid the type of workplace discrimination cases that appeared before the Human Rights Commission.

The minister argued that employment equity was unfair because it obstructs "an employer's ability to hire on the merit principle, which is the hallmark of fair workplace policies and practices." Is the minister suggesting that employers do not assess the skills and qualifications of prospective employees who identify themselves as members of a designated group? The ultimate objective of any employment equity plan is to recruit and retain the highest calibre people from as broad a community base among the working-age population within a specific geographical area according to certain occupational skills.

All the employer has to consider are barriers which have no bearing on the performance at the workplace which have inhibited the employment of members of certain communities. These barriers include but are not limited to equipment and facilities at the workplace, physical impediments such as height and weight, or interview techniques.

The minister argues that employment equity is ineffective because it does not "address the root causes of the very issue it purports to address: discrimination." How can the minister possibly come to that conclusion? One of the best features of the Employment Equity Act is its decentralized nature. Employment equity plans are developed at the workplace level, in partnership between employers and employees. The Employment Equity Act gave workplaces three years to design their employment equity plans in order to enable employers and employees to carefully identify barriers to employment and to consider all options in bringing about a plan that will address those barriers. Furthermore, what empirical evidence does the minister have that employment equity plans designed under the auspices of the Education Act or the Police Services Act are in any way ineffective?

The minister also argues that employment equity is costly. She asserts that "employers have spent thousands of dollars on a variety of complicated and time-consuming measures. In fact, it's likely that there are employers in this province who have spent hundreds of thousands of dollars." So what is the solution that the minister has brought forward? To compel employers to destroy information they collected in the workforce surveys for the purpose of implementing an employment equity plan. Yet we have heard from many employers who support employment equity and still want to implement an employment equity plan in their workplace as good business sense. Would these firms be forced to destroy this information regardless of their wishes and have to spend "thousands of dollars on a variety of complicated and time-consuming measures" on items in which they have already invested?

If there is any room for compromise and flexibility on this matter, we would like to suggest the following amendments to subsections 1(3) and 1(5):

1010

That subsection 1(3) be amended by adding after the word "effect," "unless one or both parties have written to the minister within 90 days of this act coming into force with the expressed wish that the said agreement or agreements entered into under subsection 26(2) of the Employment Equity, 1993, be continued."

That subsection 1(5) be amended by adding after the word "force," "unless said person has written to the minister within 90 days of this act coming into force with the expressed wish that information gathered in compliance with Part III of the Employment Equity Act, 1993, continue to be utilized for the purpose of implementing an employment equity plan at the workplace or workplaces of the said person."

We would like to believe that this government would, at the very least, be able to accommodate employers who have a genuine wish to implement an employment equity plan in their workplace and not bear them the undue imposition of spending money to gather information they already have at their disposal.

Bill 8 also provokes other questions. The CSR, in addition to calling for the repeal of the Employment Equity Act, proposes the development of a six-point workplace equal opportunity plan. Why hasn't the government come forward with its six-point plan with the same speed and enthusiasm it has in bringing forth this legislation? If the government should argue that it needs more time to work out the details of its plan, why could the government not bring forth this legislation when their plan was ready? Why does this legislation have to be passed before Christmas? Clearly, the implementation of a workplace equal opportunity plan has not been accorded the same priority as the dismantling of existing employment equity legislation.

Indeed, if a workplace equal opportunity plan did have the same priority, it would be encompassed in this legislation. Without a legislative and regulatory framework that makes these plans accountable to the people of this province, the six-point plan will do little more than give the appearance that something is being done to address the issue of discrimination in the workplace. Notwithstanding the employers that have demonstrated their support for employment equity, the issue of workplace discrimination, be it intentional or systemic, is far too important to leave to the charity or goodwill of a benevolent employer.

Just by looking at the situation that exists here at Queen's Park, it is clear that more measures need to be taken regarding employment equity in the workplace. We're not questioning the legitimacy of this particular Parliament or previous parliaments. All 130 members of the Legislative Assembly of Ontario have been fairly chosen by their constituents to represent them in this assembly, as set out in the Election Act. However, at the same time, we cannot ignore the fact that out of 130 MPPs only 19 are women. To put the number in perspec-

tive, if we look at the permanent memberships on legislative standing committees, as set out in the November 2 issue of Votes and Proceedings, we will find only four of the 11 committees whose female membership is in proportion to that of the Legislature.

In fact, on the standing committee the Legislative Assembly, the body that examines internal matters pertaining to all members of this House, all 14 of its members are male. With that in mind, we all recognize that men and women are equal before the law, yet they are not equal deciding the law of the land. Unless we are prepared to say that men are more capable than women in determining the laws of our land, we must acknowledge that in the electoral process there exists an institutional bias on the basis of gender.

In short, the electoral process systemically discriminates against women. Let me be very clear. Systemic discrimination and intentional discrimination are not the same thing. The men of this province did not conspire to only elect 19 female MPPs, but none the less there do exist barriers against women participating in the electoral process. They include, but are not limited to, income differentials, the raising of children, access to education and training, political connections, the ability to raise funds and the tendency of political parties to nominate women in marginal constituencies. Whether we overcome these barriers by implementing universal day care or moving to an electoral system based on proportional representation is another question entirely.

The point we are trying to illustrate is that with the abrogation of the Employment Equity Act and the repeal of employment equity measures, as set out in other acts of this assembly, there appears to be the prevailing attitude that because we have a Human Rights Code, discrimination, neither intentional nor systemic, exists. Yet we have demonstrated that systemic discrimination does exist right here in the Legislative Assembly of Ontario. And we have not even included racial minorities, aboriginal people and persons with disabilities into the equation.

These attitudes do concern us because of other decisions this government has taken during its first five months in office. Section 4 of this act, which concerns the employment equity provisions in the Police Services Act, brings to mind the recent decision of the Solicitor General to eliminate the race relations unit in the OPP. The last five years have seen gradual yet enormous progress in improved relations between police and the communities they serve. What will happen to those relations over the next five years?

Other concerns we have include the decision of the minister who brought in this act to eliminate the Ontario advisory councils on disability issues, seniors, as well as multiculturalism and citizenship on the grounds that they threatened "the financial stability of Ontario" despite costing her ministry only \$851,900 to operate for this fiscal year. The move by the minister to also eliminate core funding for the anti-racism project fund, the anti-racism operating fund, the anti-racism community placement program, to essentially eliminate the Ontario Anti-

Racism Secretariat, also concerns us. The decision of the minister to eliminate or drastically cut funding for cultural interpreters, native community branches, community action funds, immigrant settlement and integration services also concerns us.

All these decisions concern us because of their philosophical and electoral underpinnings. The governing party's campaign was reminiscent of a number of recent US electoral campaigns, such as the Bush presidential campaign in 1988, the re-election campaign of Senator Jesse Helms of North Carolina in 1990 and Proposition 187 in California in 1994.

All of these campaigns played on the worst fears of people about their neighbours and fellow citizens. It seems that the governing party literally took a page out of the Republican handbook and stepped up its focus on employment equity. The message was unmistakable: "You will not get this job because a black person or a woman is going to get it instead of you," the implication being that a black person or a woman could not be more qualified than a white male who, by his birthright, should have first dibs at the job, while never thinking that the black person or woman was actually qualified, if not the best qualified person for the job.

It should be said that the governing party does not support racism, sexism and homophobia per se, yet it is not above pandering to those in the electorate who have those particular views if this will get it to power, as it did last June, and will keep it in power. It seems that the governing party is essentially saying to those people that their views are acceptable in this province despite being contrary to the spirit of our laws. It is unfortunate that the governing party is creating a political climate where people can be comfortable with their prejudices.

Is this the kind of lesson we want to teach to our children, that it is okay to think less of someone because they belong to a particular community, that it is okay to tease, even injure someone because they do not conform to the model of acceptability and normality? The state cannot be neutral in matters like these. It either supports its heterogeneous character or it does not. If true leadership is by example, and if the latter is the model we follow as we approach the 21st century, I hate to predict what the future will hold for us and succeeding generations.

On a final note, it is important to remember that the government has not put forward any empirical evidence that would suggest that employment equity is unnecessary, unfair, ineffective and costly. Let us remember that the Employment Equity Act has been in force for barely one year. How can the government argue that employment equity fits any of the aforementioned attributes when there are more than two years before all the workplace plans would have had to have been submitted? One would think that with employment equity being in place in the fields of education and law enforcement, the government would have put forward a study that would have demonstrated the lack of necessity, the unfairness, the ineffectiveness and huge costs of employment equity in these areas, yet no studies have been commissioned, let alone released to the public.

Section 57 of the Employment Equity Act clearly states:

"A standing or select committee of the Legislative Assembly shall, on or before the day that is five years after the day this section comes into force, undertake a comprehensive review of this act and the regulations and shall, within one year after beginning that review, make recommendations to the Legislative Assembly regarding amendments to this act and the regulations."

Without the necessary empirical evidence that would be gathered by such a committee, how then can the government assert that employment equity is unnecessary, unfair, ineffective or costly? Why can't the government let the act takes its course and wait until 1999 to strike this committee? What is the hurry? We would like to believe that it is because the government might discover the merits of employment equity.

Once again, on behalf of the RMYC and MANWO, we thank you for this opportunity and I welcome any and all questions that members of this committee might have.

The Chair: Thank you very much, sir. We have exactly one minute per party for questions, so we'll start with Mr Grandmaître from the Liberals, and a minute isn't very long.

1020

Mr Bernard Grandmaître (Ottawa East): Thank you, Mr Goldstein, for a very good presentation. I think it highlights all the points that the opposition has been trying to make in the last couple of weeks.

Do you believe that some of these savings that the government will be making by scrapping the Employment Equity Commission will be reinvested in the Ontario Human Rights Commission? Do you think this will resolve the problem?

Mr Goldstein: That's a very good question. I am aware of the promise that was made by the governing party to reallocate some of the \$9.3-million budget of the Employment Equity Commission into the Ontario Human Rights Commission. No, I don't. I don't at all, and I believe I outlined some of those arguments in my brief. As we all know, the Ontario Human Rights Commission has had a long-standing backlog. It is a body, like I said, that deals with cases of not only workplace discrimination but discrimination in other areas and outside the workplace. So, no, I believe that any reallocation of funds into the Ontario Human Rights Commission wouldn't do very much. I do think that there needs to be special attention paid to the area of employment equity.

Mr Rosario Marchese (Fort York): Thank you very much for your presentation. I agree with literally everything you've said. Just a quick question.

The members on the other side have a zero-tolerance policy. They're against discrimination. They're saying the hallmark of this will be the Human Rights Commission and the Human Rights Code. We've had that for 30 years. If there's any empirical evidence about the problems we've had, it would be that system. Do you want to comment again about their equal opportunity plan and their zero-tolerance policy around the issues of discrimination?

Mr Goldstein: Again I expressed some concerns about their workplace equal opportunity plan, that it was not encompassed in this specific legislation. I might have felt a little better about it if it was. The fact that there is an emphasis on it being "voluntary, non-intrusive," in the words of some of the members of the governing party, where is its foundation? I think you can't really say you're committed to the elimination of discrimination without some sort of statutory or regulatory framework. The workplace equal opportunity plan may be well intentioned but it has no foundation on which to rest.

Mrs Margaret Marland (Mississauga South): Mr Goldstein, you talked about the fact that all forms of discrimination are systemic, and you gave as an example the Legislature of 130 elected members. I'm asking you this question as a female who's been elected in public office for 21 years and who has seen how the system works.

I'm wondering if you're suggesting that we do away with free, open elections where the electorate choose who represents them and instead of that appoint people by gender in order to deal with the systemic "problem" that you see in the current Legislature which makes up memberships in committees and deals with government policy through legislation of any government, not just the current government, because, as you know, the previous government had 28 females. I don't think that personally I would want to do away with the public deciding who sits in this building.

Mr Goldstein: Neither would I, nor did I suggest that. Earlier this year, I had an opportunity to work in the House of Commons in England. I worked for a couple of Labour MPs and I had the chance to meet with other people in social democratic parties around the world. Of course, most of the legislative assemblies in Europe are elected by proportional representation, and I did make a brief reference to that. There are some countries, the Scandinavian countries in particular—the political parties per se do have an emphasis of trying to maintain gender parity on their electoral lists, which is why I pointed to proportional representation.

I don't think that you could do as you suggested in the first-past-the-post electoral system that we have right now, nor would I advocate what you suggested. Like I said, that's a question that's for another day. The whole point of pointing that particular example out is that systemic discrimination does exist. Like I said—

The Chair: Thank you, Mr Goldstein. I have been a little generous with the time with you, anyway. I appreciate your time. We have a very tight schedule. I didn't mean to interrupt you, but thanks very much for your interest in our process and being here this morning.

Mr Goldstein: My pleasure.

SAM SINGH

The Chair: Our next presenter is Sam Singh. I am going to be a little tough on the timing on the questions, because we have, as you know, until 10 o'clock tonight and we can't get behind. So if I cut you off, you will appreciate my insistence.

Good morning, Mr Singh; you have 20 minutes to use as you see fit. Any time that you leave for questions will be divided evenly among the parties starting with the third party, the NDP. Welcome to our process. You have the floor.

Mr Sam Singh: Mr Chair, members of the standing committee, I'm here to express my personal views on Bill 79 and Bill 8.

When Bill 79, An Act to provide for Employment Equity for Aboriginal People, People with Disabilities, Members of Racial Minorities and Women, was initially introduced by the former NDP government in the Ontario provincial Legislature in June 1992 I seriously questioned its rationality then. I knew from the outset that Bill 79 obviously had some hidden ulterior motives best known to the authors of the bill.

It was nothing but a political gimmick. It was no doubt a prominent plank in the election platform that gave Bob Rae and the NDP a surprise victory in September 1990. Mr Rae promised an end to discrimination in the workplace and a new era of fairness and equality. Surprisingly, it took him four years to enact and implement his employment equity package.

The preamble of the bill was very intelligently worded, in which a grave situation of discrimination in terms of hiring, retaining employment or promotion of aboriginal people, people with disabilities, members of racial minorities and women were highlighted. Bill 79 was perhaps the only viable answer to address the concerns stipulated within the preamble of the act, according to Mr Bob Rae. But this assumption was premature and completely unfounded. It must be realized that employment equity is always a short-term political solution to existing social, economic and labour force problems. It limits opportunities for all but the most qualified members of the four designated groups, as per the bill.

Bill 79—a backlash: The employment equity law of 1993, introduced by the former Ontario government, had a backlash. It was full of faults and full of shortcomings. It was based on no conceptual model, no background program, no demographic or labour force studies to support it. The law affected about 17,000 employers and about 75% of the workforce. The reaction to the law was mixed. Many advocacy groups felt it didn't go far enough; unions were worried about the safeguard of seniority; and employers, large and small alike, were concerned about logistics and response of developing and implementing equity plans that would comply strictly with the Legislature.

The communications director of the Employment Equity Commission said that nine months were all that she could take with the commission; it was too much. She had fundamental problems about positioning, philosophy and the bottom line. She believed in fairness for everyone, but the commission was only intended in employment equity for the few groups, and not the qualitative issues. The biggest error that the Employment Equity Commission made, according to her, was its focus on numbers. The numbers became the proxy for fairness. It was certainly a political disaster.

Small companies didn't have the personnel, the employee base or the cash flow to study and implement

the cumbersome employment equity program. Even larger companies also found it expensive. Besides, most of them already had policies in place under the federal contractors' program. They didn't need a duplication, a second set of employment equity regulations.

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According to Michael Finlayson of the University of Toronto, the employment equity legislation was clumsy, interventionist, unrealistic and an impractical attempt to bring about employment equity. To him, because the NDP government was pushing employment equity and imposing the social contract at the same time, we had one half of the dream world trying to protect the jobs of the existing employees and the other half trying to create new jobs.

The federal perspective: Judge Rosalie Abella headed a commission on employment equity in 1983 consequent to her appointment by the then minister for human resources, Mr Lloyd Axworthy. The commission gave Canada a new definition of equality, coined the term "employment equity," and shifted the politics of the workplace away from class and on to race and gender issues. According to the critics, Abella turned a narrowly focused inquiry into a much broader employment equity debate.

Abella, as a result of her terms of reference, included only the four groups—women, native people, visible minorities and the disabled—who are perceived to be disadvantaged in terms of unemployment, income and occupational status. She took each of them in turn and gave each a different definition of equality in terms of their needs.

Consequently, her commission was not in fact about equality in employment, but about redress and affirmative action, a contradiction that has proved more constricting and problematic with the passage of time. She allowed employers flexibility in designing their employment equity programs and in setting their numerical targets. People were sympathetic to the barrier removal part of employment equity but were gravely concerned about the numbers, the targets, the quotas.

While Abella's critics strongly distinguished between goals and quotas, Abella differentiated between voluntary internal targets and externally imposed targets. Whatever it may be, a numerical target is a quota. Thus by concentrating on numerical goals, the act ignored the crucial points Abella had made when she suggested, "What precedes employment may be just as important as what occurs once employment is obtained." She recognized that "jobs can realistically be made available only to those who are qualified to undertake them." In trying to wipe out one inequity, another is created.

Due to the serious flaws in Judge Abella's recommendations and the negative reaction from both the employers and the employees in the public and private sectors, the federal government quietly introduced Bill C-64 in the House of Commons last month for the second and third readings. It was done at a time when the people of Canada were all preoccupied with the Quebec referendum. The purpose of the bill was to replace the government's existing employment equity legislation with

something tougher. Employment equity is still only available to the same four groups—women, aboriginal people, those with disabilities and visible minorities—who were designated more than a decade ago. But Bill C-64 widens its scope.

However, the question is, do we even need an employment equity legislation? Some outspoken critics of Bill C-64 have rightly called it an act against Canadians. They believe there has been systematic discrimination in the past but the people hurt by employment equity today and those who will be hurt in the future are not guilty of any discrimination. Some critics even charge the bill which slipped through the House of Commons as based on a faulty foundation that Canadians are mean, that Canadians are regressive, that they are racist, and they're discriminating people. They argued that the workplace, particularly outside the federal government, is progressive; industry leads; it is a truly unnecessary law.

Personal experiences: I came to Canada in 1987 from Fiji, where East Indians and the indigenous Fijians form the bulk of its population. In the field of employment, before the imposition of martial law on the country in 1987, everyone had to compete on the basis of merit. It was fair and virtuous. Everyone appreciated and respected the value of competition. But after martial law, employment practices drastically changed. Employment equity for the native Fijians became a law. This led to a massive brain drain from Fiji. The country was paralysed. I fortunately, as a result, emigrated to Canada.

In Canada, I took a teaching position with the Peel Board of Education in the continuing education department. I was soon promoted, but what saddened me the most was a subtle reaction from my colleagues who perhaps attributed my appointment and promotion to who I was, thanks to the equity law. I personally felt the existence of a sense of suspicion, despair and abomination among my fellow teachers. My two decades of teaching and administrative experience, relevant qualifications, both professional and academic, perhaps had no bearing. I felt sad and disappointed as a result.

I wish not to undergo such trauma and nightmare again. As a member of a visible minority, I need respect, credibility and due recognition of the ability, knowledge and skills that I have. The equity law unfortunately undermines all the above.

During my visits to India, I've observed that the employment equity law there has created an enormous rift and rivalry between various castes and people of different social strata. My friend Mr Dave Dhaliwal, who is here with me today, could not cope with such reverse discrimination; he had to leave India to find better employment opportunities in Canada. Because he belongs to a higher caste, it would have been completely impossible for him to find suitable employment according to his qualification. The employment equity law in India has led the young educated people of higher social strata to commit suicidal acts due to the disappointing outcome of the equity law. What a tragedy.

From the above personal experiences, I have learned that there are many casualties, very subtle, in the workplace that has become a war zone in the ongoing equity battles, whichever countries they may be. Whether we think employment equity is apartheid in reverse, social engineering to redress historical injustices, or well-intentioned public policy that has gone awry, one thing is for sure: It has disrupted and destabilized the workplace, creating chaos.

Up to today, after extensively and exhaustively discussing with a cross-section of the members of the visible minority in Ontario, neither I nor they have been successfully able to comprehend and understand any constructive, valid, viable and helpful objectives of Bill 79. Scores of members of the visible minority groups want to enjoy and regain their self-respect, identity and goodwill.

This is possible only if Bill 79 is completely killed. Its nonexistence will be a blessing to the progressive community like ours in Ontario. To most of the people of visible minorities here, it has a negative connotation, with adverse effects, aftermath and racial overtones. It undermines the integrity and capability of the members of the visible minority groups. It has created dissent and suspicion in the workplace. It has resulted in unfairness, bigotry among fellow conspiracy and Consequently, in the name of fairness, impartiality, honesty and justice, employment opportunities in Ontario should be open and competed for solely on the basis of merit.

It's only then that a fair society will be created in Ontario and everyone will be proud to be a part of it. I therefore am in full agreement with Bill 8. Thank you, ladies and gentlemen, for permitting me to express my views, and I'll be too pleased to accept any questions.

Mr Marchese: Thank you, Mr Singh, for your presentation. I was a teacher in my previous life and one of the things that I remember researching was how we as teachers tend to categorize students. There was a study that was done and it studied a number of teachers and their perceptions of students. This was in grade 1. They were able to, with great accuracy, determine in grade 1—by two determinants, race and socioeconomics—who was going to make it and who was not going to make it. It was incredible how accurate they were in grade 1 on where they would end up in grade 8 or in high school.

The point I make is that we have perceptions as teachers that we tend to self-fulfil, and so there is a problem, in my view, in terms of discrimination. Do you believe there's discrimination?

Mr Singh: What I personally believe is that—it depends on how you use the word "discrimination" and how often it has been used, and how much has it been forced to be used in classrooms or otherwise.

Mr Marchese: Okay, do you believe people with disabilities are discriminated against?

Mr Singh: I do believe, but then there are solutions for that. The solution is not that you try to prepare a quota and say, "Well, we are going to accept so many people from this particular category and so many people from that particular category." The answer here lies in trying to overcome the problem, and the one area that I can see that we can possibly be able to overcome this area is by educating people, by getting people to that particular standard where there is equality among them.

Mr Marchese: So we educate them? In the last 30 years we've had a Human Rights Code and a commission that tries to deal with discrimination in general. We've had that. We've had voluntary programs. We've had a great deal of education going on and still all of the groups that we're trying to help say: "We're not there. We don't have access to the jobs."

The Chair: Excuse me, Mr Marchese. Your time is up. Mr Young.

Mr Terence H. Young (Halton Centre): Mr Singh, thank you very much for coming today and taking time out of your schedule to talk to us. I would like to ask you a question. I share your concern with dissent and suspicion in the workplace. I worked in a large company for years where there was employment equity and I saw it happen. Someone would get promoted who was a member of a visible minority or a female and there would be a whispering campaign.

What I'd like to ask you—I was interested in your comments on India—if Bill 79 were to stay in place, where would that lead us, what kind of society would we have, because they have problems in India?

Mr Singh: Well, if we still had this Bill 79, then our community would have been compartmentalized. There would have been more kinds of division. Our duty here is, as politicians and everybody, to bring the community together so that the community is one society, not that it is divided into different categories, by saying that you belong to this race or caste, creed or colour.

The Chair: Mr Tascona, 45 seconds.

Mr Joseph N. Tascona (Simcoe Centre): Mr Singh, are you aware that the employers have to destroy the data they collect under the employment equity legislation, and also that the government's not going to be regulating the destruction of the data? Are you in agreement with that process?

Ms Singh: Yes, very much. Mr Tascona: And then, why?

Mr Singh: If I have to fill the forms or if my personal data are kept anywhere, I do not like to be seen classified under different categories, what race do I belong to, what minority group do I belong to, what other aspect of it. If I am in Ontario, I should be regarded as an Ontarian irrespective of my race or irrespective of anything else.

Mr Mario Sergio (Yorkview): Mr Singh, what would happen to minorities, handicapped, women without the protection of Bill 79?

Mr Singh: That will give the minorities and others to be more competitive. That will give them to upgrade themselves. That will give them the ability to come to the extent where they can openly compete with the other people.

Mr Sergio: I have another question.

Mr Singh: Yes.

Mr Sergio: I appreciate short answers. You say you have met with a number of minority groups. Have you met with women's groups, handicapped people?

Mr Singh: I've met with a lot of women's groups in my community, in the Fijian community, and what we

personally believe is that if our women in our community are not able to get the best of the jobs, it's not the fault of the society, it's not the fault of the government. It's their fault because they are not upgrading themselves.

My wife works in a plastics factory and she has been working there for 10 years. Tomorrow, if she wants to take up a certain other job, she has to be able to educate herself to be competitive.

Mr Sergio: In answer to a previous question, you did admit that there is discrimination and you say there are solutions. What kind of solution would you suggest?

Mr Singh: The solution, sir, is to create an awareness among all the community people to make the government provide certain options where there could be upgrading at workplace or otherwise. People are able to uplift their abilities, are able to get more education, are able to be more competitive.

The Chair: Mr Singh, we appreciate your attendance here this morning and participating in our process.

McLARREN CONSULTING GROUP

The Chair: Our next presenters are the McLarren Consulting Group, Phil McLarren, president, and Wendy Sangster, program director. Welcome to our hearings. The floor is yours.

Mr Phil McLarren: Thank you very much for allowing us to come to your committee to present our views. I am Phil McLarren, president of McLarren Consulting Group, which is a successor company to ORC Canada. Several of you will remember the work we've done over the past 10 years with various governments, both Ontario and other governments, with respect to the issue of the evolution of employment equity and employment equity involvement by government initiatives.

We're human resources management consultants who pioneered employment equity starting in 1983, and since then we've made many contributions to the evolving governmental involvement with the subject. With respect to Ontario, in 1989 for the Liberal government we did an analysis of costs to develop an employment equity plan; we made presentation in 1992 on views on the discussion paper on employment equity legislation which covered a lot of the issues that had been addressed during the process of Bill 8 being evolved; and then, in 1993, we made a presentation suggesting amendments to Bill 79 which would enhance the merit principle and eliminate some of the issues that developed around the goal-setting process.

With our 12 years' experience developing employment equity plans, I should say that most of that experience has been with large, private sector and integrated companies. I would like to introduce my colleague, Wendy Sangster, who came to us after eight years as senior manager of human rights and employment equity for a large Canadian firm with 20,000 employees. She is a lawyer and is program director for our corporate equal opportunity group.

The CEOG, or corporate equal opportunity group, is probably the thing we're best known for. It's reputed to be Canada's principal and most effective forum for private sector business leaders to exchange views on

human rights, employment equity and diversity. It was established in 1983 and it currently includes 57 member companies employing 450,000 Canadians, 80% of whom are provincially regulated and with Ontario employees. In presenting this submission, the views expressed are our own and not necessarily those of our clients or CEOG members.

First of all, Bill 8 wants us to believe that the Employment Equity Act is all about quotas, not mandatory planning to eliminate the discrimination that militates against merit. It implies that existing anti-discrimination law designed to penalize employers for past discrimination is good enough. Our experience suggests otherwise.

Our practice is to develop high-performance work environments, and in doing that, we start with a human resource management analysis. In other words, we find out, how do employment relationships work? Because of what we find in this work, we want to talk about merit principles and systemic discrimination.

Generally speaking, we have found that merit does not govern employment decisions, but neither the employer nor the employee realizes this because of systemic discrimination getting in the way. Why? Because systemic discrimination is subtle and can easily operate unnoticed. Its basic characteristics are: a policy or an action has an adverse impact on a group; a policy or action appears neutral and in fact is applied equally to all; the discrimination is unmotivated and unintended; and usually, in order to prove an allegation of systemic discrimination, we need to have statistical evidence. The defence against an allegation of systemic discrimination is that this action is a legitimate, bona fide business necessity, not a business convenience.

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If we look at all these things, rather than go and give an academic review of these things, I'm going to give you some examples of the sort of thing that happens in the workplace.

Recruitment: In most situations we come across, the vast majority of candidates to be interviewed for open positions are chosen from unsolicited résumés, employee referrals and walk-in applications. Many highly qualified people, often those from communities of people with disabilities, aboriginals and some visible minorities, have become so discouraged by seeing the ease with which less qualified candidates than themselves obtain jobs that they have lost the self-esteem and perseverance required to promote themselves effectively in the job market.

Employers find these recruiting sources effective, inexpensive and fast. It is fact that these recruiting processes do not fully tap the market of highly qualified designated group members.

Selection: After a list of candidates is identified for a selection process, they are usually screened first for technical capability. Our experience is that once a short list of equally qualified candidates has been identified, selection is often made based on "predictive behaviour" considerations—a new phrase, a phrase of the 1990s. In other words, the person who gets the job is the person the selector feels would fit best and with whom other employees would feel most comfortable. As a result, those from the disadvantaged groups, who are at least as

well and often more highly qualified, expect that they must go through many more of these processes to obtain work than do those of us who belong to the majority groups.

Work assignments: These are often given based on stereotypical notions of what groups perform best in which areas. Sales, marketing and key production jobs—those that produce revenues for the company—often go to white males disproportionately. Information, administration and support jobs—those that do not produce revenues—often go to others disproportionately.

The former assignments place employees in key lines of progression, but latter kinds of assignments lead to limited progression and ghettoes.

Promotions: Promotions are intended to be given to those with the best qualifications, performance records and other measures of merit. Our experience has shown that this is too often not the case. A major factor in progression is effective networking, self-promotion and other factors totally unrelated to merit.

Certain cultural and/or social conditioning means many people find self-promotion to be demeaning and undignified. Networking is simply not available to many, even if they were willing to try. Why should qualified individuals doing exemplary work not be able to expect recognition for their achievements based on merit? The raw truth is, they are not.

Can any of us say we have never rationalized comfort and fit decisions in terms of qualifications and performance? I know I can't. The statistical evidence concerning the rates of participation in the economy of those traditionally disadvantaged in employment is ample evidence that the answer to this question for most of us must be no, or at least we have to say it is a legitimate question.

This government suggests that education and training through their proposed equal opportunity program will help resolve the issues mentioned. We suggest that the advantages of making decisions based on comfort and fit as well as merit will ensure that qualified individuals from the designated groups will still have to make three to four times as many applications to get a job interview as those in the majority. They will have to endure many more interviews than us to obtain job offers. They will have to be passed over many times for promotions to which they may be entitled before their skills are recognized.

Will a woman who has been passed over for a developmental assignment on several occasions lodge a systemic discrimination complaint?

Will a black civil engineer who goes to 25 interviews before obtaining a job offer lodge a complaint?

Will a person with a disability who cannot get a job interview lodge a complaint?

Bill 8 throws the proactive, positive planning model "baby" out with the negative, reactive, punitive bathwater.

Will the equal opportunity plan do the job? No, it won't. It relies on education and training. It is voluntary in nature. It expects partners, namely, companies like the companies we deal with, to exchange their experiences.

Judge Rosalie Abella—the previous speaker mentioned Judge Abella's report—on page 8 of her report Equality in Employment, 1984, which is now regarded internationally as one of the few exemplary treatises on the subject of equality in employment, says:

"Education has been the classic crutch upon which we lean in the hopes of coaxing change in prejudicial attitudes. But education is an unreliable agent, glacially slow in movement and impact, and often completely ineffective in the face of intractable views. It promises no immediate relief despite the immediacy of the injustice."

Furthermore, on the basis of her vast research, she concluded at page 197:

"It is difficult to see how a voluntary approach, that is, an approach that does not include an effective enforcement component, will substantially improve employment opportunities for women, native people, disabled persons, or visible minorities. Given the seriousness and apparent intractability of employment discrimination, it is unrealistic and somewhat ingenuous to rely on there being sufficient public goodwill to fuel a voluntary program."

With respect to using the human rights law as a remedy, Abella said at page 8:

"The traditional Human Rights Commission model...is increasingly under attack for its statutory inadequacy to respond to the magnitude of the problem. Resolving discrimination caused by malevolent intent on a case-by-case basis puts human rights commissions in the position of stamping out brush fires when the urgency is in the incendiary potential of the whole forest."

In conclusion, the Employment Equity Act is unnecessarily intrusive, it overburdens employers with bureaucratic administration, and it focuses on numbers. However, it does require a plan to identify and eliminate the causes of systemic discrimination. It does enable merit to emerge as the dominant factor in employment relationships.

We suggested to the former government not to start with a complex, highly intrusive plan, but a simple one. That's in this report, by the way, dated September 1, 1993, and a previous one, January 1992. Mr Chair, I'd be pleased to make these available for the committee members if they'd like them.

We suggest to this government, don't trash the Employment Equity Act; strip it of its intrusive, bureaucratic adminstration and maintain as its main purpose to develop and implement a plan to reduce comfort and fit in employment decisions and enhance merit as a dominant determinant of these decisions.

To say the Ontario Employment Equity Act sets job quotas does a great disservice to those employers who support the principles of employment equity as set out in the act, and this has been said to be by many companies. Bill 8 repudiates these principles by inference. Bill 8 throws out the baby with the bathwater.

Bill 8 is a victory for uninformed business in Ontario, a reprieve for employers who do not want pressure to focus on merit and a disaster for qualified designated group members who are still waiting to have their merits acknowledged.

The Chair: Thank you, sir. We have about a minute and a half for a quick question from each party, starting with the government.

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Mr Tony Clement (Brampton South): Mr McLarren, would you agree then that employers in a broad range of industries and services discriminate, either directly or indirectly, in hiring promotion?

Mr McLarren: Unintentionally, yes. And so would they agree, by the way.

Mr Clement: Yes. And the proof of no systemic discrimination in a particular case would be that the hiring promotion would be based on a set of numerical targets that you would think would be reasonable in the circumstances?

Mr McLarren: Absolutely not. I think the whole issue of setting goals is really a matter of understanding. I think it's an indicator to help us understand whether or not we might be discriminating. If we find out that the general population says 20% of electrical engineers are women and we've only got 3%, then that is simply an indicator to us that something we're doing in our hiring practices might be discriminating, because if 20% of the people available are women, why do we only have 5%? The whole issue of looking at the numbers is to indicate to us that there's a possible adverse impact somewhere else.

Mr Clement: You're convinced that government involvement will solve that problem?

The Chair: Your time is up, Mr Clement. Mr Grandmaître.

Mr Grandmaître: You say that your firm specializes in helping large private sector organizations and that your approach to employment equity has been successful. Can you give me an example? I'm a client of yours and I want you to, let's say, come up with an employment equity plan for my business. Maybe my first question: When you say "large private sectors," can you give me a few examples of the large private sectors that you've worked with?

Mr McLarren: Yes. I'll do it chronologically, if you like.

Mr Grandmaître: No, no. Just give me a few names.

Mr McLarren: It's going to be chronological anyway. Shell, Alcan, Imasco, Nabisco, Dupont, American Express—

Mr Grandmaître: Okay, good. This is not a commercial. Now, I'm Imperial Oil, for instance. You've worked with Shell, so today I'm Imperial Oil. What kind of a plan would you offer me?

Mr McLarren: I wouldn't offer them any because they've got a darned good one right now. But no, I would say—

Mr Grandmaître: Give me an example.

Mr McLarren: The example would be: We would go into the situation, and you're talking specifically about recruiting, and we would find—let me use the example that there's 20% female chemical engineers out there and we've only got 5%. What's wrong? We go in and we

look at the recruiting and selection process and we would find, for instance, under recruiting, all this stuff that I mentioned in my paper is going on. We're relying on unsolicited résumés; in other words, the people who are really good at writing résumés are getting noticed in our process and we're relying on employee—

The Chair: Thank you very much. Unfortunately, I'm going to have to stop the answer there because time certainly is of the essence.

Mr Marchese: Mr McLarren, I find your presentation very, very helpful and I find your work and comments around issues of recruitment, selection, work assignments and promotion very insightful. I think sometimes people forget the specifics of how these things happen in the workplace and it sheds light on how in fact discrimination, however unintentional, happens. Your particular wording that in terms of selecting and promoting people this pressure often translates into choosing those who afford the best comfort and fit within the existing organization, I think that is very helpful.

I want some quick comment on how you felt Bill 79 was intrusive and bureaucratic.

Mr McLarren: It told companies what to do and how to do it. The federal legislation tells people what to do but not how to do it.

Mr Marchese: Where would they get help in terms of how to do it? They'd leave it to consultants like yourself, is that it?

Mr McLarren: Well, then I would side with the Conservative government a little bit and say that the role of government, getting back to Mr Clement's question, has to be looked at very carefully. There is a problem. I mean, Abella eminently pointed out what the problem is. She also, contrary to what the previous speaker said, didn't say what the solution was. She gave several approaches to get at a solution. All right? That, I think, is a very important distinction.

The Chair: I'd love to hear the rest of the answer, but unfortunately we have to carry on. Thank you very much for your time today. We appreciate your interest and your attendance here this morning.

ONTARIO PUBLIC SERVICE ADVISORY GROUP ON EQUAL OPPORTUNITY FOR PERSONS WITH DISABILITIES

The Chair: Our next presenters are the Ontario Public Service Advisory Group on Equal Opportunity for Persons with Disabilities, represented by David Lepofsky and Marion Hayward. Good morning and welcome to our committee this morning. I guess you understand the rules about the time, so the floor is yours. Questions will start, by the way, with the Liberals.

Mr Don Ogner: Good morning. My name is Don Ogner and I'm the past chair of the Ontario Public Service Advisory Group on Equal Opportunity for Persons with Disabilities.

On my right is Kathleen Naeyaert, a member of our advisory group, and on my left is David Lepofsky, the vice-chair.

I would like to briefly introduce David, since he will be presenting our brief. David is a highly regarded constitutional lawyer who, as his citation for the Order of Canada given this March states, "has used his professional knowledge to work tirelessly to protect the rights of disabled people. He has helped to educate and sensitize the general public and legislators to the obstacles faced each day by disabled persons."

He was also one of the persons responsible for persuading governments to include disability in the Canadian Charter of Rights and Freedoms and in the Ontario Human Rights Code.

Mr David Lepofsky: Good morning. Mr Ogner referred to my Order of Canada citation. I was honoured by my country for taking steps to try to sensitize legislatures and legislators to the barriers facing people with disabilities and I feel that this morning's activity is, I hope, an effort by me to live up to the honour that my country has given me.

Let me begin by explaining who we are. The OPS advisory group is a voluntary association of government of Ontario employees with disabilities which has come together to be available to advise government and the Legislature at all levels about the equality of opportunity needs confronting persons with disabilities.

We provide unique expertise because our group involves people with all kinds of disabilities, people working at all levels of the public service—that are prepared to hire disabled people, that is—and, as well, people from all walks or wheels of life. We are tied to no political party, no ideology, except we believe that people with disabilities deserve equality. We have served both the prior government and this government in advising at all levels, including appearing before committees of this Legislature, and continue in that role today.

We hope to continue doing such in the future, though sadly, without any consultation with us, the person who reads our materials on tape, transcribes to Braille and otherwise makes materials available to us, was declared surplus yesterday.

We are here to provide you with feedback in relation to Bill 8 before you and hope that our expertise will assist you in deliberating on the issues before you.

To begin, the need for employment equity: We say with respect that there is a pressing need for employment equity for persons with disabilities. We restrict our comments this morning to the needs of persons with disabilities because we're not authorized to represent the needs of any other group, but we don't seek by our presentation on our needs to speak negatively or to derogate from the needs of other groups that employment equity seeks to promote.

1110

People with disabilities have been acknowledged in this country and indeed around the world to be a substantial and substantially disadvantaged minority group. This is not something one can wish away just because one is unaware of it, where some 15% of the public is disproportionately represented among welfare recipients—who have their problems these days, I'm given to understand—and as well disproportionately, indeed massively, represented among those who are unemployed.

Society expresses outrage when the unemployment rates in our community climb as high as 8% or 9%.

People with disabilities would think they'd died and gone to heaven if they had the privilege of an unemployment rate of 8% or 9%, because most recent federal statistics suggest that our unemployment is about or in excess of 50%. Put simply, we face enormous ongoing barriers in the workplace, both pre-existing ones and new ones that are being created all the time.

Our advisory group has been very active in identifying them, and I'm going to ask Ms Hayward to assist you in this regard by distributing a document which we've delivered just recently to the Chair of Management Board and all the public sector unions bargaining in the workplace. This document seeks to identify—as we have for the government for two years—that one major set of barriers that we face in the public service are barriers in the downsizing and redeployment process.

This brief documents such and demonstrates the fact that not only are we the most underrepresented group in the Ontario public service but we get one major affirmative action program. We are overrepresented among those who lose their jobs during downsizing, and that is an affirmative action program that we would welcome being repealed, though I don't find that in Bill 8. We encourage you to look at this, because we're calling on all the contracting parties to identify and remove the barriers that face us in downsizing so that we can at least have a fair shake at staying in the public sector even while it is downsizing.

We submit, with respect, that our problems of disadvantage in the workplace are endemic, they are long term, and they have not been solved to date. They have not been solved by a Charter of Rights that has been around since 1982, a Human Rights Code that's been around since 1982, and with great respect to those who hold different views while they're on this committee or deposing before you, after 20 or more years of voluntary programs in educational programs, which many of us have participated in and which all of us know have not worked.

There is no evidence that 20 years of voluntary programs in education works. Our experience is that if you educate employers on disability without the club of a legal requirement to do something about it beyond that within the Human Rights Code, the fact is they smile, they thank you, they go to conferences, they have big lunches, they go back and they do exactly what they've been doing for 25 years, and that's why we have an unemployment rate in excess of 50%.

We'd like to suggest, with respect, that Bill 8 promotes affirmative action but not the affirmative action that we would commend. Bill 8 purports to put us into the position we were in before the Employment Equity Act was passed, and there was an affirmative action program in effect at that time. It was not legislated, it was not written down anywhere, but it was amply documented over decades and decades of experience. It was an affirmative action program for white, able-bodied men who got jobs disproportionate to their numbers and disproportionate to their merit. It was inconsistent with the very principles of fairness, merit and equality that proponents of Bill 8 purport to espouse.

We'd like to suggest that employment equity is neither a new nor a left-wing concept. It was introduced, as you've heard, federally by Brian Mulroney, not noted for left-wing leanings; it was introduced in the Ontario government by the Bill Davis and John Robarts Tories for affirmative action for women, again not known for left-wing leanings. It is enshrined in subsection 15(2) as a fundamental value in our Charter of Rights and Freedoms, a universally adopted document approved by Conservatives, Liberals and NDPs alike from those involved in the constitutional process in the 1980 to 1982 period, and it is considered frankly good business sense.

Those who argue against employment equity suggest that somehow treating people differently is to deny the merit principle and to discriminate. Yet the most sovereign legal body in our country, the Supreme Court of Canada, interpreting the most sovereign legal document in our country, the Charter of Rights, has held unanimously that equality can and often does require different treatment and that identical treatment itself can well be a discrimination.

We'd like to suggest, with respect, that those who feel that a workforce equal opportunity plan will solve the problems that we've identified are in error. For one thing, we've been told through consultations, usually convened about two days after we're notified of them and without opportunity to prepare, that the bedrock of the workforce equal opportunity plan is that it will be non-legislative, non-mandatory and voluntary. We say, with respect, that this is a formula for disaster. We already know that voluntarism doesn't work. We don't need, with respect, to prove it again.

We have been told that the equal opportunity program will involve potentially such measures—and I should say in terms of voluntarism, if you need any better evidence that voluntarism doesn't work, this very government, under Bill Davis as Premier, started to try it for people with disabilities when it adopted the then handicapped employment program, now the Centre for Disability and Work, a model of exactly what the WEOP is supposed to be, in 1980. Thirteen years of experience, and I challenge anyone to find anyone working in that who will suggest that it is an effective alternative. It helps, but it doesn't help enough to solve any problems in a serious way.

Put simply, the ideas which have been presented to us through consultation are neither effective nor respectful of our true entitlement to equality. We've been told about ideas that are being considered, such as 1-800 numbers, pamphlets, awards for those who do well. That's great in the arts, but not great in the field of equality, with respect. We think that those kinds of measures are both tokenistic, patronizing and ineffective. Our best analogy would be if you went to a doctor, somebody having just shot six bullets into your head, and the doctor restricted his range of treatment to offer you either Anacin, Tylenol or Aspirin. Frankly, the options are not exactly ones the patient will find that intriguing.

At the very same time as the workforce equal opportunity plan is being developed, there is a troubling new initiative being undertaken in the Ontario government; that is, the gradual elimination of those in the public

service who've been hired and trained at public expense to promote equal opportunity for people with disabilities and others. The employment equity offices in the various ministries—whose major mandate has not been employment equity but removing barriers, preventing discrimination, Human Rights Code compliance—put simply, are gradually being downsized and, in three cases, eliminated.

I'd like to also distribute a letter which I've sent on behalf of our group to the Chair of Management Board identifying this problem. Rather than keeping the very expertise that's been built up at public expense to ensure that workforce equal opportunity can be delivered in the public service, the very expertise that's been developed within the public service, at public expense, is being terminated before the workforce equal opportunity plan has even been finalized, developed or implemented. We say, with respect, that that's a waste of public resources and will only create new barriers for people with disabilities.

I turn for about one minute to the question of destruction of information in subsection 1(5) of Bill 8. That provision, we suggest, is unprecedented in the law, destroying information collected at public expense. It serves, we suggest, no social goal, no social value. It applies not only to employers but any person, any journalist, who has information that may have been derived from an employment equity inquiry may have to find their notes, buy some kerosene and get rid of it quickly to comply with this law.

What social purpose is that serving? It applies not only to statistical data from employees which, with respect, is already secured, is already protected and is already free from risk of abuse, but also would include any survey conducted within the Ontario public service of employees with disabilities to identify barriers that they face; in order words, information that is very important and useful to promote workforce equal opportunity practices. That information is required by this law to be destroyed. That information may well be relevant to human rights proceedings now and in the future. Put simply, it may be evidence that shouldn't be destroyed. We say that is not a constructive exercise, and ask that that provision be removed.

To conclude, we urge that employment equity be retained. If people think this law includes quotas—it doesn't, but if people think it does, do what the federal government has done: Put in a clause that says, "No quotas shall be allowed under this act." If people think this law interferes with the merit principle—it doesn't—put in a clause, as the federal government does, saying hiring must be based on merit.

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To conclude, we wish to remind members of the committee that everyone either has a disability, knows someone who has a disability or one day will have a disability. Put simply, the only difference between us and you is that we've gotten ours already. Before your days on this earth come to an end, the chances are you will have one too, quite possibly while you're trying to pursue employment. When you consider whether to vote on this bill or how to vote on this bill, when you go to bed at night we ask you to think not only about the impact of

your vote on us, who already have disabilities, not only on your children or friends who have disabilities, but on yourself some months and years ahead. Will you have made your own life a better one or a worse one, depending on your vote on this bill?

Subject to any questions, Mr Chairman, those are our submissions.

The Chair: Thank you very much. We have one minute left per party.

Mrs Sandra Pupatello (Windsor-Sandwich): Mr Lepofsky, quickly, your comments on the fines etc that could be imposed under Bill 79.

Mr Lepofsky: My comments on the fines that could be imposed under Bill 79?

Mrs Pupatello: Yes.

Mr Lepofsky: Probably about the least consequential provision of it as a matter of practice. The really material provisions in that bill are the administrative enforcement ones. Look, there's lots of ways of touching up that bill but you've got to have it around before you touch it up.

Mrs Pupatello: Yes. I happen to agree with you actually.

Mr Marchese: We thank you for the presentation. It was very helpful, I think, to all the members here. Sam Savona came before this committee, a person with a disability, and talked about how he searched for work for 10 years and found one day's work out of those 10 years. All of that happened while we had an equal opportunity kind of world.

We're likely to have that world reintroduced and we're going to see people who are struggling to get into the work market, like yourselves, finding it extremely difficult again. I think you've answered that question, but I don't know whether you want to speak to it again.

Mr Lepofsky: The cost to the public of repealing this bill is the cost to the public of maintaining barriers, of allowing new barriers to be created, which this law would have prevented. It is the cost to the public of maintaining people with disabilities on welfare, collecting public money, rather than being taxpayers and paying into the public purse. The cost of discrimination to the public is enormous. If one wishes to reduce the public debt, one should wish to promote employment for people with disabilities, and Bill 79 would have done that.

Mr Young: Mr Lepofsky, I want to thank you very, very much for coming here today. I think I can speak on behalf of my colleagues that we admire very, very much the work that you do. Your presentation was very helpful and excellent.

I do want to check something for the record and ask you a question at the same time. I want you to be aware that it's not the government's intent and never has been to cut welfare for people with disabilities or seniors. Those people will be taken out of the welfare rolls and put on a program more appropriate that will be separate and receive the benefits and help from the government which they should have.

With regard to your saying that there hasn't been progress, or you indicating there hasn't been progress in

the last 20 years, is that what you're saying, that there hasn't been progress for people with disabilities getting jobs? If so, I'm a little confused, because you said the employment equity bureaucracy is being removed, so there's an indication to me there that it probably wasn't being effective. So what progress has there been in 20 years?

The Chair: Excuse me. It was a wonderful question. It just was a little too long. We have to go on to the—

Mr Marchese: Mr Chair, can we get unanimous consent to allow him to answer?

The Chair: The Chair has made a decision. Thank you very much for your presentation. We appreciate your attendance here this morning.

Mr Lepofsky: Ask me outside. Thank you very much. I appreciate the opportunity.

Mrs Marland: Mr Chairman, I would like to register an objection, and I hate to do this, but in the past, when a question has been asked, even if we have run overtime, the deputation does have an opportunity to answer it.

The Chair: Basically the decision is that each presenting group has been told they have 20 minutes. How they intend to use it is up to them, but we are going to stick to the 20 minutes.

NATIONAL ACTION COMMITTEE ON THE STATUS OF WOMEN

The Chair: The next group is the National Action Committee on the Status of Women, Winnie Ng. Good morning and welcome to our committee. You have 20 minutes to use as you see fit. Any time you allow for questions will begin with the NDP. The floor is yours.

Ms Winnie Ng: My name is Winnie Ng. I'm the southern Ontario regional rep for NAC, the National Action Committee on the Status of Women. Beside me is Nandita Sharma who's the member at large on the executive board as well.

The National Action Committee on the Status of Women, NAC, is the largest feminist organization in Canada. At present, it includes more than 600 member groups, and the diversity of Canadian women and their communities is reflected in the NAC membership. In southern Ontario alone, I represent over 200 women's groups, member groups. That comes from national women's organizations, women's centres, service delivery groups, immigrant women's groups, disabled women's groups, aboriginal women's groups and women's committees of churches, unions and political parties.

Since its inception in 1972, NAC has been at the heart of the struggle for women's equality in Canada. NAC has been involved in employment equity in Canada since the Abella commission. NAC played an active role as part of the coalition lobbying to strengthen both the federal as well as the provincial employment equity legislation.

With that as sort of the background, we've prepared some notes and I'll just go on in terms of what we feel about Bill 8.

To the women's groups, Bill 8 is considered as the Harris government's agenda of inequality. It's designed to put women, people with disabilities, racial minorities and aboriginal peoples down and keep them down, keep them out of the workplace.

Since June 8, Ontario has been deluded with the Harris agenda of inequality: the freeze on minimum wages for the working poor, major cuts to pay equity, cuts to child care, slashing withdrawals of funding for Wheel-Trans services to the disabled, announcement of the closing of Ontario Welcome Houses, the closing of the Ontario Anti-Racism Secretariat and other huge cuts to social agencies and support work that help children, families and the disabled. This is a program that has a goal, a goal to increase inequality in the province of Ontario, its harsh effects especially felt by women, aboriginal people, people with disabilities and racial minorities.

What Bill 8 has proposed is to deny the realities that have confronted the four decimated groups on a daily basis. What your Bill 8 is saying is that systemic discrimination does not exist, when we know systemic discrimination is so subtle, so insidious and so invisible that most of us take it for granted as the normal practice of society. So when we're talking about systemic discrimination in employment, it takes more than just the goodwill and volunteerism of employers. It takes strong legislation to dismantle the wall of systemic discrimination.

When we know full well that women with disabilities, racial minority women and aboriginal women also face double jeopardy and double discrimination in workplaces, the answer is more than just goodwill and having a piece of equal opportunity legislation. We have had that for too long, and I'm here to say enough is enough. We can't continue that practice.

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When women have been excluded out of work, then we also have women retired, women aging with less than an adequate income. Just for the record, in 1993 in Canada, Statistics Canada has reviewed that of women who are over 65 and who are single, elderly women, over 48% live below the poverty line. That's not by coincidence; it has a systemic and historical base to that figure. The fact that older women are now living in poverty has been based on the exclusions of being away from employment and being segregated into low-pay employment.

So I find it really, really—what's the word?—appalling and outrageous when the cover of the bill talks about restoring "merit-based employment practices." What you will be restoring is an affirmative action program for white, able-bodied men that we have had in Ontario, in Canada, in this society for the last 200, 300 years. Is that what we're restoring? Furthermore, in terms of the meritbased principle, who are the ones who decide who has merit or not? The ones who are on the other side of the hiring table making the promotion decisions or training decisions, again, will be the white, able-bodied men promoting the ones who look like them and the ones they feel comfortable with. We are here on behalf of the women from the different groups in saying we cannot do that. To do that, yes, it might be legally right, but it's a morally wrong action to take.

We know the committee will also probably hear arguments from employers that they cannot afford effective employment equity measures in this time of economic hardship. We argue that employment equity is

required even more in these times. The four designated groups—women, racial minorities, aboriginal people and people with disabilities—even in the best of economic times have always been in a recession. We have always been excluded out.

If you take a look at over the last 30 years, a revolution has occurred in family status. In 1962, 64% of families were headed by a sole, male wage earner. In 1990, 30 years later, only 13% of families were supported by a sole, male wage earner and 15% of families now are headed by a sole, female wage earner. The majority of families require two incomes to survive. Women are becoming poorer at a much faster rate than men. When parents are poor, their children are poor. Employment equity is a critical measure to solve child poverty.

I just want to close by saying that the full participation of the majority of populations at every level of the workplace would enormously benefit society. Employment equity is a mechanism to remove the privileged positions that white men have occupied in employment. It's a recognition that discrimination against women, racial minorities, people with disabilities and aboriginal people is built into our employment systems and must be systemically removed and rooted out.

Good intentions or best efforts are not enough. As women, women of colour, women of disability and aboriginal women, we want to see results, not just lipservice. Having an equal opportunity bill is not going to create that climate and that will and the mandate among employers to get them going. We don't want and we don't need to wait another century before we see equality in the workplace.

Employment equity is good for everyone. It can create a more humane, more democratic and more productive workplace. It will improve the quality of life of workers from both the designated groups as well as the non-designated groups, and we believe it will also improve the corporate "bottom line" by making full use of the human resources available.

But the steps to achieving employment equity will create some discomfort and disruption as well as certain expenses, and that's where as elected representatives you need to take that political courage and leadership, and carry those moral obligations and transform them into actions. We're talking about having injustices addressed, and to ensure employers will make the best effort and the concrete effort that will ultimately benefit everyone in the country, strong legislation and leadership is required. Thank you. Nandita, do you want to supplement?

Ms Nandita Sharma: I would just like to add that the policies that we have seen coming forth from this government since it came into power have been reinforcing a cheap labour strategy. Taking away options from people in terms of social assistance, taking away options of women, people of colour, people with disabilities and aboriginal people from decent, paid employment that offers them the ability to be independent is feeding into a cheap labour strategy, and once again this government shows that it is enforcing systemic privilege.

As there is systemic discrimination against women, against people of colour, against people with disabilities

and against aboriginal people, there is systemic privilege if you are a white, able-bodied male. Once again, this government has shown that it does not govern for the people of Ontario; it governs for the privileged of Ontario, it governs for the people of Ontario who are willing to make a profit on the backs of the most disadvantaged people in society.

The clearest indicator that your government is following not a Common Sense Revolution but a nonsense revolution is your indication in subsection 1(5) that you are demanding that every person in possession of information collected from employees for the purpose of ensuring employment equity should destroy that information. We would like to ask you a question: What are you afraid of? What are you afraid is in that information that you are demanding that it be destroyed?

What we know is in that information is the fact that employment equity has not been achieved, that women, people of colour, people with disabilities and aboriginal people continue to occupy the lowest rungs of the ladder in Ontario, and we have once again been shown clearly that your government continues to perpetuate that condition for us. We know that you are not governing for us.

The Chair: We have a couple of minutes per party.

Mrs Marion Boyd (London Centre): I want to thank the representatives from NAC for the presentation. Women make up 52% of our population, but we know that women are clustered in only 20 of the 500 different job categories and we know that racial minorities have to apply to three times as many jobs even to get an interview and that the unemployment rates among disabled and aboriginal people range from 60% to 80%. This government claims that this is a restoration of the merit principle, and I wonder if you would comment on whether you believe the term "merit" has become a code word for discrimination.

Ms Ng: There's always this perception that women are considered as a "special-interest group." I think when we listen to statistics about 52% of women who are in the workforce, you can't turn around and say it's a special-interest group.

The merit principle that we have right now is one that is designed and geared for white, able-bodied men, plain and simple. When you're talking about who is in the top decision-making corporate rooms, who are the ones, who are the faces that are there, it's not women, it's not women of colour, it's not women with disabilities or aboriginal women. When you have a system that is not accountable, when you have a merit system that is there designed to promote "corporate image," that corporate image reinforces what's there in the society. I'm saying that discrimination is not just racial harassment or right in the face, but it's discrimination in employment, it's much more subtle and insidious employment practices, in terms of excluding.

If you take a look, even in your own government as an employer, at who are the ones who are in the clerical entry jobs right now, a lot of them are predominantly women of colour, women with disabilities and aboriginal women who've just barely got a foot in the door right now. Now, with the restructuring and the downsizing,

these are the women who are going to be first out of the door.

1140

Mrs Marland: I'm always very interested in what the National Action Committee on the Status of Women has to say because I feel, particularly this morning, some of the comments that you've made do your organization a disservice because some of them are quite inflationary. I think you do a disservice to those women who are in our boardrooms and holding down corporate jobs and people with disabilities who have tremendous success to their credit as individuals.

But what I'd like to ask you, because I have never been able to get an answer to this question as a woman, is, how do you assess the positions that you take? How do you get the information? I've never heard of you having a national conference or annual general meetings or sending out questionnaires. You are here, as you say, representing all of these different groups. Some of those groups and organizations I'm a member of, but I have never, ever been asked a question in all of my years, nor has my daughter, by your organization.

The Chair: If you want an answer, Mrs Marland, I suggest you wrap up the question.

Ms Ng: For your information, NAC has an annual general meeting every June in Ottawa and all member groups are sent notice to participate. That's where policies such as employment equity and pay equity are discussed, debated and voted on. If you are interested in getting more information, we'd be more than—

Mrs Marland: If you cannot afford to travel to Ottawa—I'm talking about local areas.

Ms Ng: That's the annual general meeting and it's local reps. We send out mailings to all the regional members. There's also an Action Now newsletter that's sent out to all the groups. To say that you haven't received the information, maybe I should provide you with a membership registration form. If you agreed with NAC's policies, then you would be more than happy to participate as a member.

Mrs Marland: But I think it's-

The Chair: Thank you for your answer. Mr Sergio.

Mr Sergio: Ms Ng, equity within the workplace can be accomplished, can be maintained, can be improved without any government guidelines. This is the proposed Bill 8. Do you believe that?

Ms Ng: I believe we stated quite clearly that without the legislation it's not enough. By depending on the goodwill and the volunteer work of the employers, what we will get are the token representatives who might be in the boardroom, who might be in different positions. But if you take a look, at this point women only hold 4% of the skilled trade positions. Are we to interpret that women are not interested in non-traditional skilled trade jobs? No.

Mr Sergio: I want to try to get your views on another question if I have time. Women, as you said, are one particular group. What about other groups, such as other minority groups or the handicapped people?

Ms Ng: When I'm talking about women, people should understand that women include women of colour, aboriginal women and women with disabilities, so it's not just white women we are talking about. In terms of all the designated groups, we have come up here in the last 10 years time and time again asking different governments, "We need strong legislation that would dismantle discrimination in the workplaces, and that's the only way to work." We can't wait another 100 years.

The Chair: Thank you very much. We appreciate you participating in our process and your presence here this morning.

ONTARIO ADVISORY COUNCIL ON WOMEN'S ISSUES

The Chair: The next group is the Ontario Advisory Council on Women's Issues, represented by Rosalind Cairncross. Good morning and welcome to our committee. The floor is yours.

Ms Rosalind Cairneross: Thank you, Mr Chairman, and good morning to the honourable members of the committee. I'm not going to tell you what you've just heard and what I am sure my other colleagues have told you regarding employment equity, because you've heard that.

In South Africa, where I come from, we used to have a law called job reservation. It basically saved all the besions for the white, able-bodied people, mostly male. Now in Ontario we are about to have Bill 8: job reservation, the informal version, the Ontario version.

I'm a professional engineer, with lots of experience in both industry and government, so I've been occupying the white male world for a long time as a person. I can tell you that all this voluntary business simply doesn't work. Like Colin Powell, who was telling us the other day that he got his job because of affirmative action and that he wouldn't have gotten that job, no matter how talented he was, if he were not in such a program, I also got my jobs because the Americans had affirmative action.

For everyone who imagines that standards will drop, when I did join the company I was the only person with a degree, I was the only person with experience in the field equivalent to everyone else—so you can see the standard really went down when I joined. That experience has been repeated over and over.

It didn't come about because of the natural goodwill, not that the people involved were not good-hearted people, but their experience told them, "The only people who can do this job are people who look like me." Therefore, no one else could possibly have merit. The merit principle, that's what it consists of.

In the old days, you got your job because your dad worked there. Look at Ontario Hydro: How many people worked there because their dad worked there? You can look at any number of situations. You could take, in Ontario, our auto companies. You got a job there because your dad worked there, or at least you were Protestant. If you were Catholic, you didn't get a job there.

We don't put up with that any more, but that's the old way. That's where we're going back to. At a time when

our global economy is trying to get the most qualified workforce, the most diverse workforce, the people who can get us into the Pacific Rim, the people who can get us foreign markets for export, what are we doing? We're going backwards. Educationally, with the skills in the people we've got, we're not tapping into that because those people are minorities in the society. They just happen to be the minorities of a place where the market could be extremely good if we cared to tap into their talents.

1150

The purpose of employment equity law is to level the playing field. That you've heard over and over. I am more than happy to spend more of my time answering your questions, because this is not a theoretical position. I've been there and I've seen exactly what it does. I know very, very well that you certainly do not get an equal opportunity unless there is some motivating force pushing you to it. And yes, everyone will not be comfortable.

I remember when the Americans first brought in employment equity. In our lab, the proverbial white, ablebodied, male lab manager was saying, "When they brought in this law my worst nightmare was that I would get an application from a black, female PhD and I would have to hire her." And then it happened; he did have to hire her, and he said, "It's the best thing that ever happened to this lab." It wouldn't have happened without the motive force.

The Ontario Advisory Council on Women's Issues, since 1973 when it was established, has been, if not banging on the door, then certainly perhaps knocking its head against the door in favour of all the affirmative programs of every government that has governed since then, and we obviously support the employment equity law now.

The voices of women and all the designated groups are being silenced slowly, one by one, including our council. I couldn't leave here today without letting you know that our council has no idea whether we will continue to exist—one more voice of women and the designated groups which is potentially in danger. I think we at least are entitled to clarity on that issue.

As to the programs in place besides the plan that the current government is apparently working on, I would like to make some comment on the Human Rights Commission, and again I make this comment from a personal point of view. I have been to the Human Rights Commission with a complaint against the Ontario government, where there is rampant discrimination, absolutely rampant discrimination. It took three years, with a very, very unsatisfactory result, and that was after the fact.

I urge you to think again. This is not about quotas. If merit had been a principle in the old days, the days before employment equity, no employment equity law would ever have been necessary. The problem was that it isn't.

Mr Young: Thank you for an excellent presentation. I know it was heartfelt, and I agree with you that it's not theoretical. That you've actually been through it makes it much more meaningful.

My concern is with any kind of quotas. We have a good understanding—not firsthand experience, but we try to understand as best we can—that a young black girl or boy, teenager, try to get ahead in school or try to get a job and they hit a barrier called systemic racism. But with quotas, what we would be replacing it with is a young girl or boy who might be a different colour, a Caucasian, for example, who faces the government saying, "You go to the end of the line for jobs because there are wrongs in other areas." How can a parent explain that to their child? I understand a black parent trying to explain to their child now, saying, "Well, that's the way our society is," but how could a white, Anglo-Saxon Protestant parent explain that to their child?

Ms Cairncross: I'm glad you asked the question. The employment equity law was not about putting the black child, or whatever member of whichever designated group, ahead of the white Protestant person or child. It simply said that where you had the situation of two people equally qualified for a position, and that would go down the line for opportunities in training for young people and so on, the person from the designated group would be considered—not jump the line, not get favours that they don't deserve, not be unqualified and get jobs. If they were equally qualified, that person would be considered.

It was necessary simply because very often, and I can again tell you that from personal experience, it doesn't matter how qualified or smart or hardworking or busting your gut you are, you will not get the job because you don't look right.

I am not in favour of people who don't have the qualifications. There must be an equality, but a real equality, providing that those two young people have come through the same opportunities. They've had, right from the start, enough to eat so that they can learn, they can go on. Discrimination doesn't just start at the end of the line there. It starts long before that. Providing those opportunities are equal for those two people, I say the person from the minority group should be considered, which is not what is really happening.

Ms Isabel Bassett (St Andrew-St Patrick): Not to dispute some of the things you've said—equity has played its role in getting us where we are—but now when there are so many people of different backgrounds in the workforce, people such as Al Flood, the chairman, chief executive officer of the CIBC, said last week, "Diversity is our future." The Canadian Bankers Association came out and said: "Banking on equity is the only way to go. Diversity means good business."

I wonder if in this day and age—you're not talking about 1984 but 1996—you see that times have changed enough that it's good business to hire people of different backgrounds and that this in fact is happening. In the banking community, they are being promoted way beyond what they're required to do by the federal equity laws.

It's a question; I don't know the answer.

Ms Cairncross: There are some excellent companies who have just done this because it makes good business

sense. One would hope that everyone would follow for exactly that reason. However, to give you an example, in our local mall, the store that used to be there was a Woolco. Even though we're living in a very diverse area in the west end of Toronto, very few minorities worked there. And then came WalMart, an American company where they have affirmative action. In the last two years, there has been a dramatic change in the look of the workforce.

There are excellent companies, but if you're not fortunate enough to work for them, in the same way as we're not all fortunate to work for IBM or whatever and we have to put up with what we get, if there is no motivating force driving those companies—

Ms Bassett: There is.

The Chair: Thank you very much for your answer. Time to move to the opposition party.

Mrs Pupatello: You come from a real fascinating background. I lived in South Africa in the early 1980s when apartheid was still there, and we've been fortunate to watch its dismantling. There they not only had reservations in jobs but land too, and water fountains and all of that. It's an interesting perspective. I can tell you I haven't thought about my stay there as much as I have in these last five months since the election.

It's interesting too that you would use a banking example. One of the worst records in terms of an industry in employment equity has been the banking industry, so I find that interesting.

Can you tell me about the quotas that are implied in Bill 79, what you could have done in terms of an amendment, such as the fines? Businesses really reacted to the fines being in place and really did view it as quotas.

Ms Cairncross: First of all, from the point of view of quotas, I didn't see Bill 79 as a quota bill at all, any more than a company having a sales target is having a sales quota and you get fired or punished severely if you don't make it. I saw it as a business plan, an intention of how to get to your goal. So from the point of view quotas, I can't answer you simply because I didn't see that as a quota. I saw it as a plan.

If there are difficulties with the employment equity law, we can work and sort them out. If businesses have problems because there's too much paperwork or difficulties, we can work that out.

Mrs Pupatello: Can you tell us what some of those amendments might have been?

Ms Cairncross: We'd be very happy to discuss this with you at greater length, have the advisory council make suggestions. Perhaps today it's a little difficult to do, to get into that.

Mrs Boyd: Thank you very much for the presentation. The advisory council has a long and honourable history of coming before legislative committees and pointing out difficulties to all governments of all ilk, what the effect of legislation is on women, and that's of course the task.

I was very interested that the member for St Andrew-St Patrick talked about the banking industry, because of course the banking industry is under federal legislation, as I understand it, and is under a regime of employment equity. Yet in the banking industry what we tend to see

is lots and lots of diversity at the teller level, where it's up front in front of the public, but very little diversity as you work up the ranks.

I know you're an engineer, and I know that a lot of your work within your own association has been in trying to improve the ability of women engineers within their own profession. Would you like to comment on that?

Ms Cairneross: That is a typical symptom among many companies: at the floor level to have that sort of situation, but as you go further up the ranks, the whiter and the more male it gets. The banking industry typically is also one of those where the way you got to be manager was that you came and the tellers, the women in those days, trained you and then you got the bank manager's job. That's the way it used to be until things got a little better.

Yes, they have been driven by the impetus of the federal government, which is why we need some urging force here in the form of this employment equity law. The longer that situation pertains in terms of companies getting away with just hiring at the lowest level, whether it's women or people from the other designated groups, they will, which is why we need the law.

Mrs Boyd: Can you comment in terms of the difference between the experience you have had in the United States, where there is an affirmative action regime, in Canada and in South Africa? Are we worse off than the United States but better off than South Africa? Can you talk about that a little bit?

Ms Cairncross: My experience with American companies took place in South Africa. These were subsidiaries of American companies which were driven by legislation in the States. In fact, I didn't know this at the time, but I was hired precisely because I was from a designated group, because this was a requirement of the Americans to do business in South Africa.

When I came to Ontario, the reason I said that used to be the case is that that's precisely what I found. It wasn't a formal discrimination, it was informal, but it was nevertheless firmly in place. I could get a job, but I wouldn't get a promotion.

The Chair: Thank you very much. I appreciate your attendance here this morning and your interest in our process.

The committee stands recessed until 3:30 this afternoon.

The committee recessed from 1204 to 1535.

The Chair: Good afternoon. The House has now moved to orders of the day, so we can begin our committee hearings. Just one note, members of the committee: Before you at your place is the summary prepared by the researcher. Elaine, did you want to make a comment about that?

Ms Elaine Campbell: I'd just like to point out to the members that on page 7 of the summary at each of your places there is a reference at the top of the page to section 6 of the bill. That should read "section 7." It will be corrected in the final summary.

Also, a final summary will be made available Monday morning. I'd like to point out that it will not include the

recommendations made Monday morning and we may not be able to get all of Friday's in. If there are presentations tomorrow without briefs, Hansard may not be available for us to supplement the summary with those particular recommendations.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair: Our first presenters this afternoon are the Ontario English Catholic Teachers' Association, represented by Marilies Rettig, Carolyn Stevens and Greg Pollock. Welcome to our committee. We appreciate your interest in our process. You have 20 minutes to use as you see fit. Any time that you leave in that 20 minutes for questions will be shared evenly among the parties. We would begin the questioning at the end of your presentation with the Liberals. Thanks for attending. The floor is yours.

Ms Marilies Rettig: The Ontario English Catholic Teachers' Association represents 34,000 members across the province, men and women who are teaching in separate schools in different parts of this province, teaching both at the elementary level and at the secondary level, from junior kindergarten through to the OAC level.

OECTA is affiliated with the Ontario Teachers' Federation, whose membership numbers 134,000 teachers employed in the publicly supported elementary and secondary system of education across the province.

Certainly OECTA is pleased to have this opportunity to present to you today and present our concerns about the proposed Bill 8.

The title of the bill is misleading, as it refers to quotas, not goals, as presented in the Employment Equity Act, 1993, as well as in policy/program memorandum 111. The title further states that it will restore merit-based employment practices in Ontario.

This is an affront to all persons who have been promoted during the life of the legislation being revoked or repealed. To even suggest that the women obtaining promotions to vice-principal, principal or supervisory officer status are unqualified for those positions to which they were promoted is both unfair and incorrect.

Within the past 10 years the qualifications required in order to apply as a candidate for the principal's course have increased. It has become necessary to hold two specialist certificates from the Ministry of Education or an approved master's degree. It is quite clear that men and women who have moved into positions of added responsibility are more qualified now than ever before.

For many years OECTA has worked towards achieving equity for all of its members in the Ontario educational system. However, despite these efforts, there remains to this day a disproportionate ratio of women in positions of educational leadership compared to their male counterparts, even though women educators constitute a greater percentage of all educators.

This is particularly true in the elementary level of education, where women number in the 60% to 70% range, but the percentage of women who are in positions of responsibility is certainly far lower than that. In recent years there has been an increase in the number of women

vice-principals, principals and superintendents. This increase did not come about voluntarily.

When examining the Education Act, for more than 20 years there has been legislation in place to address the systemic barriers which discriminate against women and other designated groups, such as aboriginal people, persons with disabilities and members of racial minorities. Despite this, progress has been painfully slow. The low representation of certain groups has a negative impact upon students, who need both male and female role models, as well as role models from many races and many cultures.

In light of this long and difficult struggle for women and the designated group members in obtaining equitable recognition and promotion, it would now appear to be totally inconsistent and improper for the government to revoke the very measures put in place to address this unfair and unjust situation.

There's an urgent need to continue to identify and remove the barriers faced by women, aboriginal peoples, persons with disabilities and persons from visible minorities in obtaining employment and promotions to positions of added responsibility.

There is the need to continue to address the barriers in the areas of attitudes and perceptions as well as in the areas of recruitment and selection.

The whole area around training and development must be reviewed for barriers in order to be more just.

The area of communication must also be examined to ensure that it is barrier-free.

There has been some progress in the past 20 years in gaining more equitable representation of women and persons from designated groups in areas of added responsibility in education in Ontario. However, the progress has been slow and required much encouragement from the government of Ontario.

Our association fears that by revoking the sections of the Education Act relating to employment equity, there is a strong statement that equity for all educators is no longer important. Nothing could be further from the truth.

The common curriculum calls for respect and dignity of all persons. The government's legislative message now becomes contradictory and confusing to both students and teachers.

Certainly the recommendation that we bring forward to you today is that the sections of the Education Act relating to employment equity and memoranda 92 and 111 be retained.

In order for a police force to be effective, it must be fairly represented within the community that it serves. The sections of the Police Services Act relating to employment equity must be retained if there is to be true equity of representation of persons from the designated groups within the police forces of Ontario.

All of the different peoples of Ontario must see themselves reflected in the ranks of the Ontario police forces. The diverse range of citizens in Ontario must relate to the police forces in order to trust them and to cooperate with them in keeping Ontario safe.

Certainly the recommendation that we are bringing forward to you today is that the employment equity provisions in the Police Services Act be retained.

With respect to the Employment Equity Act, the act was passed in the hope of eliminating barriers faced by women, aboriginal peoples, members of visible minorities and persons with disabilities when applying for jobs or seeking promotions once employed. Ontario's population is racially and culturally diverse. Ontario is also a home to many persons with disabilities. Many women, persons with disabilities, members of visible minorities and aboriginal people, though qualified, experience great difficulty in being considered for employment, hired and ultimately promoted. There are many systemic as well as overt barriers that lie in their way. The act was passed to help these qualified citizens of the province gain their rightful place in the labour force.

Because the barriers faced by these groups of qualified people are so entrenched it was necessary to pass legislation and legislate practices, such as those in the act, to address the injustices that I have outlined. The procedures outlined in the act force employers to carefully review their practices and procedures in the hopes of recognizing and removing all barriers to fairness and justice for all people.

The Employment Equity Act did not speak out about providing opportunities for employment for unqualified persons. It stressed that persons seeking employment must be qualified candidates. Therefore, it was not quota-based legislation. That certainly is not what the current Bill 8 suggests. It is most unfair to those qualified persons who were able to gain employment as a result of the act to suggest that they were employed because of their gender or race and not their qualifications.

By ignoring the issue of discrimination addressed in the Employment Equity Act, this government risks the peace that this province currently enjoys. Marginalized people, whether they are women, members of visible minorities, aboriginal people or people with disabilities, will voice their disapproval and seek justice if the legislation is repealed. With the greatest number of eligible workers coming from these marginalized groups, can this government afford to deny them their rights?

If this government sees components of the Employment Equity Act as flawed, why then cannot there be some reasoned amendments made to the act while still maintaining the essential integrity of a fair workplace for all persons?

Many organizations and citizens are in favour of legislation which will ensure social justice for all people in Ontario. Many organizations have committed themselves to addressing workplace barriers by removing them. They see this as economically advantageous to their organizations or businesses as well as being fair and just.

Our association urges this government not to repeal the Employment Equity Act of 1993 but to consider making reasonable amendments to it which will ensure that the members of designated groups find their rightful place in the workplaces of Ontario.

This, in turn, will transfer into fewer hungry children in the classrooms of Ontario. There is no better way to build a healthy Ontario than ensuring the health and education of its future—its children. Ontario needs these children from culturally diverse, physically diverse and often single-female-parent-supported households as leaders in Ontario in the next generation.

The recommendation we are bringing forward to you today is that the Employment Equity Act, 1993, be amended instead of repealed.

With respect to the Human Rights Code, repealing sections of the code relating to employment equity further erodes the rights of people disadvantaged in Ontario's potential and actual workforce. The code is the ultimate law under which persons seek help and redress. The code enshrines those basic rights afforded all individuals in Ontario. As such, it must be carefully considered.

Instead of repealing sections of the code, this government would be advised to amend the employment equity law of 1993 to better address the concerns of all Ontario job applicants or workers and subsequently amend the Human Rights Code so as to reflect those changes.

Our recommendation then comes forward as that the Human Rights Code be amended so it is consistent with the changes of the Employment Equity Act.

In conclusion, OECTA believes that the title of the new act, Bill 8, is inaccurate and unfair to all those people who have been promoted while the employment equity law was in place. It implies that these persons were hired or promoted for reasons other than their qualifications. This is not an accurate nor is it a fair assessment.

OECTA recommends that the government of Ontario abandon the repeal and instead amend the Employment Equity Act. The principle of fairness and justice for all Ontario's citizens in the workplace, as espoused in the act, is sound both economically and from a social justice viewpoint. Responsible amendments could enhance its power and could address the concerns this government has had with the Employment Equity Act of 1993.

OECTA urges the government of Ontario to retain the provisions in the Education Act and in the Police Services Act. Teachers and police officers are in a position to serve the public of Ontario. Ontario is radically diverse, racially diverse and culturally diverse. Therefore, both educators and police officers should fairly represent that diversity. The role models presented to Ontario's youth are invaluable.

OECTA strongly recommends the retention of both policy/program memoranda 92 and 111. Both of these memoranda encourage equity and justice for all of Ontario's educators and potential educators. Social justice must be modelled and not simply defined as an unobtainable ideal within the common curriculum.

The Ontario English Catholic Teachers' Association trusts this committee will seriously consider our message and therefore reconsider the message of Bill 8 in light of the recommendations that we have provided to you today.

Mrs Lyn McLeod (Fort William): I essentially agree with the essence of your recommendations, so perhaps I could just ask you to say a little more, because you put, I think, an encouraging emphasis on the importance of addressing systemic barriers. If you could say a little bit

more about the nature—I know this is more than you can do in two minutes—of the barriers and how you feel they can be better addressed in a legislated framework than in a situation with no legislation.

Ms Rettig: Certainly I think there's in essence a necessity to review the policies and practices; it must continue in order to recognize those barriers. We have to have a careful and a very clear assessment and examination of that. Perhaps they could be reviewed to determine what specific barriers do exist and face each particular group and look at mechanisms by which those barriers can be overcome.

Those barriers in the area of education focus not only on women, interestingly enough, but also on men, particularly those men teaching at the elementary level and not necessarily at the primary level.

Carolyn, do you have anything to add to that?

Ms Carolyn Stevens: I think it's also really important to have an assessment. Organizations, businesses and education bureaucracies have to have a look at who the potential candidates are coming in and also look at the makeup of the people that they're serving, so there has to be an analysis. Whether the analysis would be the same as what was asked for under the Employment Equity Act is not necessarily so, but definitely find out: Who are we representing? Who is available to serve? Who is qualified? What are the barriers to those people being employed and promoted? Have those analysed. Probably some of the greatest ones surface in the whole area of hiring: advertising, recruiting and the whole hiring process. I would think if there were one area that really needed to be looked at, it would be that one.

1550

Mrs Boyd: I'd like to thank you for your presentation. I was rather struck by the part you didn't read aloud, which traced the history of the notion of employment equity within the education system back to the early 1970s when the Conservative government was in power, clearly saying how important it was considered by that government over the rest of its mandate to continue the efforts towards employment equity.

The claim has been made—certainly the minister made a claim—that it is no longer necessary to have these kinds of policies in place. I'd like you to say a little bit more about why the decision that was made back in the 1970s by a previous Conservative government is suddenly not needed now, at least in the view of this government.

Ms Rettig: Certainly. I think there's a great error in the thought that it is no longer necessary, particularly in the area of education.

I cited the fact that the great majority of teachers at the elementary level are women, but they are a real minority when it comes to looking at positions of responsibility, either within the school or beyond the school at the board level. When you look at the number of vice-principals, principals and, ironically, even the number of teachers teaching at the senior level in the elementary school, grades 6, 7 and 8, it still tends to be very heavily dominated by the males. That is a very, very serious flaw within the system, because what our children need within

our schools across this province are viable role models, and those role models just aren't there right now.

Mrs Boyd: I gather that your association has been supportive of the notion of getting more men teaching at lower levels so that children have those role models early on. You're really talking about real employment equity, aren't you, for men and women when we talk about gender issues?

Ms Rettig: Precisely, and that's why I alluded to that briefly in my initial response to the previous question. It does reflect on women gaining access to positions of responsibility, but there is also a component there where the greatest percentage of people and teachers working at the primary level tends to be female, and that has to be remediated and addressed as well.

Mr Young: I'd like to ask you what your association's position is with regard to the hiring of non-Catholic teachers, for instance Jews.

Ms Rettig: As you're aware, the trustees have come forward with a case and are challenging section 136 currently in the Education Act, as it was amended once Bill 30 was passed.

We historically haven't changed our position: We do not support, but we do not argue with, the right of Catholic school boards to assess at the point of hiring who they will hire based in part on denomination. That hasn't been the most exclusive decision made by the boards in the past, and they have hired non-Catholics. Indeed, people of the faith you identified are working within Catholic boards across this province.

But I must say that our association has sought intervenor status within the case, and the reason we have is that we feel that once a teacher has been employed, has been selected by the school board and employed, it is our right as an association to protect the rights and the interests of each and every member, and there shouldn't be anything that would deviate from the rights and the opportunities that are held by any teacher in the separate system for promotion and/or advancement.

Mr Young: I still don't know if you're for it or you're against it.

Ms Rettig: In terms of the hiring and the right of boards to determine at the point of hiring, we support the boards in their right and recognize that right. But we also acknowledge that once the board has made the determination as to who the employee would be, we will protect the rights and the interests of that particular employee.

The Chair: Thank you very much. We appreciate your attendance here today and your interest in our process.

ONTARIO SECONDARY TEACHERS' FEDERATION

The Chair: The next group is the Ontario Secondary School Teachers' Federation, represented by Pat Wright and Rosemary Clark. Thank you very much for taking the time to attend this afternoon, and welcome.

Ms Pat Wright: I hope I will be able to leave some time for questions, because I think the best way for clarifying positions is through answering questions.

First of all, let me say on behalf of the Ontario Secondary School Teachers' Federation how very pleased we

were to be given this opportunity to make this presentation. Both Rosemary and myself have worked long and hard in areas of employment equity, and our organization has stood for equity and fairness since 1919.

Just so you understand our position, I refer you to our constitution, which says, we "protect members individually and collectively, to support and promote equal opportunity for members, employees and students, and to foster and promote the dignity of all persons regardless of race, religion or cultural origin."

Let me first off say, on the record, that we support Bill 79, the Employment Equity Act, as it was passed into law. We believe that that law allowed true democracy in the workplace because it had a key provision which required employees and employers to sit together and assume joint responsibility for ensuring that the policies that were determined to be appropriate for that employer were worked out and suitable to the needs of all the employees and worked well within that workplace environment.

Especially when we look at the 50,000 educational workers that OSSTF represents, who include office and clerical staff, custodians, psychologists and other professional services personnel and educational assistants as well as public secondary school teachers, you understand that our perspective is very broad. We look at the educational sector not from teaching only but this sector in its broadest concept, and we see the absolute need to maintain and retain within that system employment equity for the members and for the students who are part of that system.

Therefore, the key component of our presentation is to call for this government in Bill 8 to maintain within the Education Act paragraph 8(1)29 in its entirety. We believe that all forms of equity, including anti-racism and ethnocultural equity as well as employment equity, must not only be maintained but must be strengthened. That perspective is fundamental to the belief of OSSTF, which serves the interests of its members and the interests of the students and the communities.

Just to show you how deeply committed we are, I bring to your attention a book we have produced recently called Anti-Racism Education. We have, naturally, sent a complimentary copy to the Minister of Education and Training and assured him how happy we would be to work with him in making sure that the contents of this kind of book are implemented throughout the educational system, because it does provide support for staff working in the school system. That is the commitment we have to equity.

There are two key issues we would like the committee to consider. School boards must maintain their commitment to fight discrimination within the educational system, and this commitment must be demonstrated to the public at large. We also believe that self-policing mechanisms which allow boards to measure success in providing equity must be retained within the system.

Therefore, to achieve these two goals, we would make two key recommendations: that paragraph 8(1)29 of the Education Act be left intact so that all boards are required to develop an employment equity policy. The other

recommendation is also fundamental, that joint employeremployee equity committees continue to be responsible for developing and implementing employment equity policies and plans.

1600

Why, do you ask, are we so committed to that belief? Within the educational system we find that employees who work at a variety of levels provide very important role models for the students. I want you to put yourself in the place of any of the groups mentioned in the Human Rights Code. You go into the school and look at the staff represented there and look at the clients those service providers have to provide service for. You will see that there is quite a disparity in terms of numbers. What our students tell us is that one reason for their failure to achieve as we would like them to achieve is the fact that we do not have enough role models in the system.

If, as this government says it is going to do, you were to repeal the Employment Equity Act and strengthen the Human Rights Code, I remind you that section 14 of the Human Rights Code contains provisions for special programs to achieve equal opportunity, and one of the very special programs that is absolutely necessary for our students is to provide them with role models to mirror themselves in the schools.

I do not see that it is contradictory at all to ask school boards to have in place policies. All we are asking them to do, in paragraph 29 of the Education Act, is to have that policy in place. It doesn't specify the nature of the policy, what is contained in the policy. There's absolutely no necessity to repeal that requirement. We're saying, put a policy in place so that all will know what the school boards stand for. We see that as a very clear requirement, and therefore we ask you, please do not repeal that section of the Education Act.

Similarly, we would make an equal plea for the Police Services Act, because policing goes hand in hand with educating. If you have an educated citizen and a citizenry that understands their roles and responsibilities within the system, then you should allow them to have in both places an equal representation in terms of the role models they see both in education and in policing.

Our federation is on record to this minister and to previous governments of being able to provide them with training materials, and we have done this. If you look at appendix A at the back of our document, you will see in there a number of training materials. We have conducted the workshops, we have conducted the discussions with our groups and with our school boards, and we have attached, as an appendix for you to study, the materials that could be used with school boards to achieve employment equity in the workplace.

But what we need to support that direction is clear policy from the board, and if you repeal the requirement for boards to have that policy, there'll be no incentive for them to go forward with it.

Let's talk about a self-policing mechanism and accountability. We've been told in the education sector that what education needs is a greater degree of accountability. We agree, and we can tell you how we can achieve that: by having joint workplace requirements

between federations and boards, because then the onus is on both parties to make sure it works.

Any one-sided policy or program that's put in place will not achieve the desired results. Therefore, we ask that you maintain the requirement that we have joint coordinating committees, joint employment equity committees within school boards that are a joint responsibility both of school boards and all the employee groups that work with those school boards. That is one way we can maintain accountability.

If we allow those policies, the requirement for which I just spoke to, to be public and well-known, clearly demonstrated to the communities within which those school boards find themselves, then you will have accountability. I do believe that those communities will ask the boards themselves the questions, and they will ask the employee groups the same questions about how we maintain this in our workplace. We believe a self-policing mechanism can be achieved if we have joint workplace committees between employer and employee developing the policies, instituting those policies and implementing those policies.

That can also be achieved by having appropriate staff development, and we have materials that are available for anyone who wants them to go about how they would achieve that staff development. We have made it available to our groups, we have made it available to the boards, and we have got some of that material in as the appendix.

Making any workplace task a joint responsibility ensures that unions are as accountable as employers. We believe the Minister of Education could issue guidelines and criteria to boards of education for these joint committees which would enhance self-assessment and ensure compliance with the Human Rights Code. Our experience as OSSTF is that joint committees enhance the working relationship with the employer and are very effective in implementing change.

We welcome the initiative to beef up the Human Rights Code, but remember that the Human Rights Code is still a complaint-driven process and does not ensure in itself an end to systemic discrimination. Direct discrimination under section 5 of the code is readily identifiable and correctable through a complaint process. Although adverse-impact discrimination is prohibited under section 11 of the code, it is a form of discrimination that is very difficult for an individual to prove when that discrimination is inherent in the system, the very system from which that individual has been excluded.

We believe the Human Rights Code by itself cannot produce an equality of opportunity in workplaces. It must be supported by practical employee-friendly policies and practices.

In conclusion, I would put it to you that any equal opportunity plan within the education sector or antidiscrimination education program must address the real identified need to produce and provide for students workplace models at all levels of employment within the education system. Therefore, we will make only two recommendations to you: Amend Bill 8 to require boards of education to develop employment equity policies, and continue joint employer-union committee processes already in place for working towards employment equity. We believe we need this for the sake of the students of Ontario.

Mr Marchese: We thank you for your presentation. Obviously, the government members say they're against discrimination of any kind and against anyone, so they have a zero tolerance policy, they say. They have an equal opportunity plan which is very vague in terms of what it's going to do. We don't have any clarity on that at all.

We had a presentation made by the Federation of Women Teachers' Associations of Ontario as well. They made reference to the equal opportunity approach in 1980 where, "In 1980, women were two thirds of the teachers, 15% of vice-principals and only 7% of principals. Even after intervention, persuasion, education and funds provided to the boards of education, 15 years later in 1995 women were three quarters of the teachers, 52% of the vice-principals and 33% of the principals." So they made some modest gains, but this only after many years, 15 or 20 years, this after intervention, persuasion and education, and that's what we're left with with the equal opportunity plan.

We think it would be worse for aboriginal people and people with disabilities and people of colour with respect to this. Do you believe that an equal opportunity plan is going to help women in terms of these modest gains, is going to help people with disabilities who have never even had these modest gains, or aboriginal people for that matter, or people of colour?

Ms Wright: As you have said, we have had affirmative action policies, equal opportunity policies—and they go by a variety of names—in place for a very long time. Still, we've only had women representing, by our statistics, 27% of principals and vice-principals in Ontario, and if you look in the secondary school system, for instance, we are just about 50-50 in terms of our male-female mix. Therefore, I agree with you that a plan by itself which is unsupported by very definitive policies that would, for instance, be in boards, what they present, be in the legislation through the Human Rights Code—unless you have that, in a sense, legislative base upon which to stand, the modest gains will continue to be minimal all the way along.

1610

Mr Young: Mrs Wright, just as I assume that you are likely a role model for some children, of both sexes and different nationalities, I think back to my days in school, and my two favourite teachers, the ones who had the most profound influence on me, were both of a different race. Why can't teachers be a role model? Why must they be of a different race? Can a Sikh be a role model for a Hindu? Can a black teacher be a role model for a white student? And if not, why not?

Ms Wright: Well, I would use the term that I call "cultural synchronization." The extent to which you may have two cultures, albeit from different origins, could be synchronized in the sense that you have an understanding across the board, and that would be fine. If you were to ask the teachers, the teachers would say, "Yes, we can be

role models for everybody," but when you ask the students, some students have difficulty approaching teachers who they see to be of a different culture because those cultures have not been quite synchronized.

For instance, let's just look at guidance. If you have male guidance teachers, you have females who may come from albeit different races, from different cultures. They may experience great difficulties going and discussing some of their personal problems with those male guidance teachers. So ask the students, and that's what they will tell you: "We need the role models."

Mr Grandmaître: One question from me and a question from Mrs McLeod. I'll be very short, Mr Chair. Thank you for your two recommendations. I think they'll be very useful. We can use them in the future.

I'd like you to refer to page 3. You say, "The majority of school boards indicated that they are interested in continuing the work of employment equity committees regardless of whether the Employment Equity Act, 1993 is repealed." I'm sure you must know of subsection 1(5), destruction of personal information. Section 39 of the Employment Equity Act, 1993, provides that "a person in possession of personal information collected from employees...shall not use or disclose it" except for the purpose of complying with the act. You're familiar with this section?

Ms Wright: I am familiar with that.

Mr Grandmaître: Most of your boards are interested in continuing an employment plan. Now, with this section, they don't even want you to use the information that's been collected. What are your thoughts on this section?

Ms Rosemary Clark: We've directed our representatives on the committees, who are anxious to continue this work, because most boards recognize that it is important—if I could just add an aside, the few boards that we're having trouble with unfortunately seem to be boards with a heavy aboriginal population, so that we are noticing there is a trend in the boards who are not willing to continue.

In terms of the information, some of it was collected pre-employment equity, Bill 79, and is still valid information. We have told our members if this bill passes they have to delete the survey data, but there are many good things they can do without those data as long as they are required to do it.

The Chair: Thank you very much. Obviously, you didn't leave any time for Mrs McLeod.

We appreciate your attendance here this afternoon.

NATIONAL ORGANIZATION OF IMMIGRANT
AND VISIBLE MINORITY WOMEN IN ONTARIO

The Chair: The next group is the National Organization of Immigrant and Visible Minority Women in Ontario, represented by Maria Wallis and Barbara Isaac. Welcome to our committee. We appreciate your attendance. You have 20 minutes to use as you see fit, and when we get to the question time, the government will begin the question period.

Ms Maria Wallis: I'm with Barbara Isaac, who will introduce herself.

Ms Barbara Isaac: I'm the president of the Toronto chapter for the Congress of Black Women.

Ms Wallis: In our allotted 10 minutes, I want to focus briefly on three points. After our presentation, we look forward to the following 10 minutes of questions from the committee.

First, for the record, I would like to protest the process undertaken by this government. After introducing this bill with short notice, the government is rushing it through the standing committee. Some of the people in the province, ourselves included, are finding out about this standing committee and our opportunity to appear before it by a telephone call. Many have not even heard of the existence of this committee.

Yesterday in the newspaper I noticed a public notice of a liquor licence application which asked residents to "make written submission as to whether the issuance of the licence is in the public interest having regard to the needs and wishes of the residents." Employment equity has 300 times greater significance than a liquor licence application. I want to know why the committee did not issue a public notice asking the people of Ontario whether this bill is "in the public interest having regard to the needs and wishes of the people." Is this government afraid of democratic participation by the people in their own government?

Second point: Reading Bill 8 and the Hansard record subsequent to its introduction, I see little or no understanding on the part of this government of the complexity, both in scope and breadth, of systemic discrimination. What I see instead in this bill is both rhetoric and vengeance. For instance, why is the government provoking the people of this province with an obnoxious title that implies that the rest of us do not yearn—yes, yearn for merit-based employment? Why is this government asking for the destruction of data by employers who want to proceed with the recognition of diversity in this province? Why is this government repealing sections of the Police Services Act and the Education Act that have worked both to reflect the diversity in this province and to provide role models and hope for ourselves and our youth? Finally, given that employment equity was a key component of the Conservative election platform, why did the Premier of this province not speak to this bill? We want to hear him justify this bill by speaking specifically to its many draconian components.

Third and final point in three sections:

(a) A report titled "Drop out or Push out? The Dynamics of Black Students' Disengagement from School" was highlighted in yesterday's newspaper. Drawing on the experiences of students, the researchers report:

"...blacks are often alienated by traditional high schools.

"Many cannot identify with what's taught in class, with mostly white teachers or with the dominant social culture of schools.

"Others are alienated by subtle forms of classroom racism and teachers who do not expect black students to succeed."

- (b) During the Nuremberg trials, by prosecuting the criminals responsible for the genocide of the Jewish people, the concept "crimes against humanity" was introduced in the arena of international law.
- (c) Several studies, some quoted in the Hansard discussions as well as others, have reflected and given witness to the situation of racialized people in this country. Given the documentation of the dismal situation in housing, education, health and employment, among other areas, and the resulting destruction of hope, the shutting down of human potential and the disenfranchisement of people from their own institutions and government, I feel we have every reason to introduce the concept of crimes against humanity on the provincial level and to introduce with it our right to resist the systematic violation of a people's right to full development of human potential and human dignity.

All of humanity loses when systemic discrimination exists. The spirit of this bill also violates the international covenant on economic, social and cultural rights. In addition, by introducing this bill in such an undemocratic way, this government loses its legitimacy to govern.

I would like to conclude by saying we will scrutinize the process and policies in Ontario and we will hold this government accountable to all people in this province.

We would want to recommend public forums and open discussion. We want the people of Ontario to recommend measures that will balance the principles of individual and group rights. We also want to remind ourselves and everyone around us that justice delayed is justice denied. We want goals that can be tracked; policies, measures, outcomes that can be monitored. We want a legislated plan open to public scrutiny that will also encourage public discussion and thereby enhance both civic, education and our own growth. Thank you.

Mr Young: Thank you very much for your presentation. Where the rubber really hits the road in hiring and promotion in this province is literally thousands of personnel officers, human resources managers and managers at large who hire people for jobs. It mostly happens at the interview process. What I'd like to ask you is, given the pressure that's been put on a lot of these people hiring in those positions by the federal legislation and by some of the municipal governments that have contract provisions that you must hire companies that have minority employees etc, don't you think that some of the people doing the hiring take the short road, take the shortcut just to get the numbers and choose somebody of a different race who might be less qualified than somebody who's a white Anglo-Saxon Protestant? Do you think that ever happens?

Ms Wallis: But what we're also asking for is a process that will just go beyond raw numbers, that will look at a systematic review of practices, because, again, we're saying, focus on the way this is done.

Mr Clement: Thank you for your presentation. I'm just curious, since you did raise Nuremberg, we've had a number of examples this century of terrible crimes against humanity that have been perpetrated by the state,

by a government, by a tyranny. So I'm just curious how you feel that in our context in Ontario, government has the solution: The state can correct an injustice. How does that fit with what you've correctly identified as a problem with state terrorism and state tyranny throughout the world this century?

Ms Wallis: There is room for government in addressing systemic discrimination. One of the things that keeps coming up time and time again on the government side in terms of logic is the notion of individual rights. I'd like the government to remember that one can only be an individual in a social context. If you say "I'm an individual" in a forest, you're just whistling in the wind.

Mr Bart Maves (Niagara Falls): Okay, just one, on page 3: "All of humanity loses when systemic discrimination exists." I don't think anyone disagrees and I don't think you should ever believe that we disagree with that. The question that we are putting is, how do you deal with that? How do you get rid of discrimination in a society?

The presenter before you talked about anti-racism education that they're doing. I applaud that 100%. We've had aboriginal groups come in and talk about a similar focus, outreach programs that break down barriers. I applaud that 100% because I believe in the power of education to enlighten people. I think you would agree with that too.

In the past, there have been all kinds of affirmative action laws throughout the world, and the record shows that quite often these have an opposite effect of hardening attitudes instead of ridding society of them. I don't really have a question, other than to put the point that I hope that you would consider that. We're not endorsing discrimination whatsoever; we're just disagreeing with Bill 79's method of ridding the society of it.

Ms Isaac: If I could just maybe speak to that statement a little bit, I've lived in this country—I was born here. I'm a fourth-generation Canadian right here in Ontario and I've seen how stereotyping and people's comfort level means that people in my family, black people who were born and raised in Ontario, get left behind. It doesn't matter if you've gone to U of T. I have doctors, lawyers, dentists, engineers in my family and they still face discrimination.

I think what has to happen is you need to have a policy from government that says this cannot happen. It needs to be legislated and you need to have education at the same time. If you don't have that two-pronged approach, then of course people's backs are going to be put up. I agree with that. So we're looking for two things at the same time, not just one thing.

Mrs McLeod: I'm going to give you an opportunity to expand a little bit more on that, by the way. I'm trying to pose this as a question that is hardly going to be answerable in four minutes. When the government presented this piece of legislation, there was one sole defence for presenting it. They said that we do not need employment equity legislation because discrimination is illegal in the province of Ontario.

It seems to me that even if you look at strengthening the Human Rights Commission, we have not dealt well with cases of blatant discrimination, that it has not been effective at all in looking at systemic discrimination. Even if we were successful in dealing with outright evidence of discrimination, we would not have provided enough to address the barriers to real equal opportunity.

I wonder if you might just want to say something about whether or not indeed we don't need employment equity legislation because discrimination is illegal.

Ms Isaac: As I said earlier, you're right, it's illegal; it's been illegal all my life and I've worked in this province since I was 14 years of age. But I've still been discriminated against. When you put the burden of proving discrimination on the individual, you put it on me every time I go for a job to say, "Something didn't feel right, something didn't seem right," or if you put the burden on black women to say, "Well, we've added up all the nurses in our unit and we don't have the right numbers," then you put the burden on us and that makes it more difficult.

Mrs McLeod: You want something more than a judicial process that you have to initiate, I would think.

Ms Wallis: Something that would also address the systemic components. Individual-based complaints are extremely difficult that way and so much of systemic discrimination in terms of my own research in schools—how do you explain to somebody that when you come into a classroom there's hostility in the air? You sound like a flake, unless somebody is able to point out those kinds of systemic components and the way they come together and create the atmosphere.

Mr Grandmaître: I'd like to ask the parliamentary assistant a question. In the CSR you say that you will be introducing some kind of a plan to replace the Employment Equity Act of 1993. You were talking about a sixpoint workplace equal opportunity plan. When will we see this plan?

Mr Clement: I don't think that was in the Common Sense Revolution, first of all; I think it was a statement during the campaign, but you're quite right—

Mr Grandmaître: No, there are six points in the Common Sense Revolution.

Mr Clement: You're quite right, we did make an announcement during the election campaign based on our view of the appropriate role of government to promote and to assist in a non-coercive way employers and employees in the area of non-discrimination and equal opportunity. Our intention, as stated by the minister, is to introduce that plan very quickly. Certainly, it would be around the same time as we expect that this piece of legislation will be ultimately dealt with by the Legislature.

1630

Mr Grandmaître: So it won't be happening before Christmas.

Mr Clement: I don't know. I guess it all depends on how quickly we pass the bill—

Mr Grandmaître: Or you introduce closure.

Mr Clement: —but we're certainly working on it right now.

Mrs Boyd: I'd like to thank you very much for coming as well.

Mr Young, when he was asking his question, was really trying to get at one of the great myths around employment equity, that in fact it is reverse discrimination and will result in reverse discrimination. It's always interesting to hear that, because of course we know from our experience in government and the real efforts that have been made by the Ontario government around employment equity that in the last year that statistics were gathered, 66% of jobs that were available in the Ontario government went to white males and they only comprise 38% of the population of Ontario.

How do you respond when people talk about reverse discrimination? How do you talk about the concerns that you have when this is seen as a turning of the tables, almost blaming people who have been the victims of discrimination by suggesting that they want to discriminate themselves?

Ms Isaac: I think you've answered the question yourself. I think what has happened is that over time, people have built up a particular vision of what black women can do or what Asian men can do etc, so we've been pigeonholed into those areas. So that has been discrimination. We want to look at that and say: "But we need people of many different races in many categories of jobs across the board. How do we get that?" That, to my mind, if you try to redress that, is not reverse discrimination, it's not righting wrongs of 100 years ago; it's looking at what we have right now and working forward from there.

Ms Wallis: It also assumes that we all start off on the same footing, and that is so wrong. I would also want to encourage everybody who's addressing this to go off into our classrooms and our schools right here in this province and see how the various high school students are segregated into racial groups.

That's what we're beginning from and we have to address that, not assume that doesn't exist. Therefore, then, what you're saying is, let's pretend everybody's equal and let's pretend that we can just walk ahead without seeing how the systemic discrimination that just walks through all of our ways in which we do things has to be addressed, and we have to figure out something in the interim too.

Mr Marchese: That's the point. I wanted to make a statement quickly by saying it is the role of government, governments have a responsibility to deal with inequities in society. We can't shrink away from that responsibility and say we can't do it or shouldn't be doing it; we should allow voluntary methods to get to the problem of inequity. How wrong. But this is how we are separated from the other side, because that's what they believe.

The assumption is fundamentally flawed too. It makes the assumption that we're all equal, and if we were, you wouldn't be here. If we were, we wouldn't be dealing with employment equity. If we were dealing with merit, you wouldn't be here, because black people, women and people with disabilities and aboriginal people say: "Hire on the basis of merit. That's what we want you to do." Mr Lepofsky, a constitutional lawyer, said that without

the club, voluntary programs won't work. That's what we've had before, that's what they're recommending and I think you've spoken to that as well. Voluntary programs will not work for many people in society.

Do you have a comment on that?

Ms Wallis: No, we agree. Voluntary measures have been in place, and look what we have. We don't have the representation and we need that.

The Chair: Thank you very much for your presentation.

Mr Young: On a point of order, Mr Chairman: A statement was made that students in our high school system are segregated.

The Chair: That's not a point of order. Thank you very much, ladies, for your presentation.

ONTARIO PROFESSIONAL FIRE FIGHTERS' ASSOCIATION

The Chair: The next group is the Ontario Professional Fire Fighters' Association, represented by Bill Cole. Obviously, Bill has somebody with him. Gentlemen, you have 20 minutes to use as you see fit. If you leave any time for questions, it will begin with the Liberals.

Mr Bill Cole: My name is Bill Cole. I'm here today on behalf of the Ontario firefighters' association. In essence, the firefighters' association supports the repeal of the Employment Equity Act for a variety of reasons. We have provided the committee with written submissions. I don't for a moment want to go through it page by page. Suffice to say that substantive reasons for the repeal are contained in the first section of the submission. I'm not going to focus on them today.

The submissions do rely upon the 30 years of experience of our southern neighbours and the successes and failures that they've had with affirmative action programs. I think it was said earlier with an earlier delegation, the idea of how employment equity has in many ways backfired, deepening feelings of people. I think you could say that with people who may begin to have a superficial concern, that may be corrective. When forced to deal with invasive legislation that compels certain things, those superficial and corrective feelings become much more visceral and in essence have a countereffect that the legislation is not intending to provide for.

The portions I would like to focus on today are the sections that deal with the Human Rights Code and the repealing of section 14 and special programs and special measures that can be introduced under that section.

The firefighters' associations and firefighting in general in the province is unique in the sense that over the last 10 years there have been considerable efforts by municipalities and firefighters' associations to put in place preemployment testing procedures that can be deemed as bona fide. In the early 1980s, there was a considerable amount of attention paid to firefighter recruitment, the testing processes. There were a number of challenges before the human rights tribunal, a number of them successful on the part of the candidate, because the systems weren't bona fide, and of course municipalities, wanting to avoid that liability, undertook and retained specialized consultants to come in and, through some

very highly empirical testing processes, create a process that could withstand those challenges.

In my municipality, in the city of Ottawa, we were one of the first in the province to do so, and we have worked very well within that mechanism now for about eight years. Under section 14 of the Human Rights Code, recently in the city of Ottawa we have moved away from that bona fide program.

There is a quote that I have on page 10 by Dr Norman Gledhill, who was one of the leading consultants within the province studying these testing processes. When he was in Ottawa, he undertook a study of every possible task that a firefighter could do in their line of work, with as many as 60 firefighters ranging in age from a recruit right through to senior officers. Dr Gledhill says, on page 10:

"Because loss of life and damage to property are at stake, the speed of a firefighter's response is critical. It follows, therefore, that the job-related performance tests should be accomplished within an acceptable period of time. Hence, the performance time of candidates is judged against a mean time, an acceptable time, and a maximum time based on the performance of experienced firefighters. Further, because there is an urgency to accomplish firefighting tasks as quickly as possible, recognition should be given to candidates who complete the job-related performance tests more efficiently than others."

In essence what Dr Gledhill is saying is that consideration should be given to the persons who are basically finishing at the top of the list. The systems that we have in place aggregate people in accordance to scores in a descending method from number 1 down and are hired in that fashion.

In the city of Ottawa, the program that has been undertaken now, the special program under the auspices of section 14, would see a master list, and I have that on page 9. The master list of candidates is then broken down into four subgroups, and the person would be placed in that subgroup in accordance with where they—if a person finished 10th and they were the sole person in that category, they would finish first within that subgroup, and then when vacancies arose, people would be hired from the top of each list. I have that outlined on page 10. You can see the arrows sort of point to the way the system is broken down.

The concern that the firefighters have in general is the system is moving away from the most qualified candidate. If you had a single person who occupied a category, that person, if they finished 500th on the list, would be a first in that category and they would be essentially assured a position within the fire department.

The reason why this is a concern is that the testing process, at least in the city of Ottawa, has a range from 41 through to 105 in scoring, 41 being the threshold where the person would be placed on the list. At the end of the day, what that really means is that a person who finished with a 39% score could be guaranteed a job or would be put in that place. When you have 500, 600 people applying, candidates going through this process, there is a wide, wide, wide range of abilities within that

spectrum. By supporting the repeal of section 14 within the Job Quotas Repeal Act, we'll be getting away from that and re-embracing the concept of hiring the most qualified person.

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The other point, the final point that we wanted to focus on today, was the support for the inclusion of subsection 1(5) of the act, which talks about the destruction of confidential workplace survey information.

We're probably all aware that in general there are certain questions that an employer would be unable to ask an employee throughout their employment. The Municipal Freedom of Information and Protection of Privacy Act, as well as the Freedom of Information and Protection of Privacy Act, expressly outline an employer being barred from asking certain questions and would permit those questions only where legislation expressly allows for that, and that's certainly what the Employment Equity Act did. We would suggest that in the absence of the Employment Equity Act, the employer would also lose the authority to maintain that information.

We're not just trying to—this isn't a trite argument, because we know that it is contained within the legislation that's being reviewed today. It's just that there have been expressions by a number of employers within the province that, regardless of the final outcome, they will be retaining the act. So I would ask the committee to seriously consider maintaining that section and having it apply clearly and concisely so employers would be unable to maintain that information.

I think that's pretty much all that we have as far as our submissions and we can open it up for questions. I would ask the committee to review the written submissions. We have expanded considerably on our three basic points within the submission. Those are our submissions for the day.

Mrs McLeod: I will certainly review the written submission. I appreciate the effort you've put into elaborating on each of the points here. I particularly appreciate it because I think the application of principles of employment equity within the firefighters is perhaps one of the toughest for all of us to get at in a way which is fair to the whole issue of qualified personnel. So let me try and focus my questions, just two questions, on that area.

You described in the Ottawa program specifically a range within which an individual can qualify. Would you feel comfortable that people at the low end of that range are nevertheless qualified? Is that a fair question to ask you? I recognize that you were talking in terms of most qualified, and obviously people at the top end of the range you would see as having been more successful than those at the lower end, but would all fit into a category of being qualified applicants?

Mr Cole: Because the scope is so broad in qualifications, from, as I said, the 41 to the 105 in the aggregated score, there is a significant difference in the ability of the person in that range. I think obviously, from a public interest point of view, there is a need to recognize the person who can perform the essential duties of the

occupation more efficiently, and because of the nature of our occupation, that's usually a function of time. So there is a difference.

I would submit that we would encourage increasing the bottom of the range up and tightening that even more so we wouldn't have to deal with this sort of question. It was our position initially in 1988 and 1989 when the studies were done in Ottawa that the range be tightened, just for this very reason.

Mrs McLeod: Fair enough. And is there a problem here that starts at an even more basic level, which is a problem of recruitment, of attracting enough people from different groups not traditionally applying to be firefighters, so that you have a smaller number from the designated groups that are even taking the tests, and that kind of skews the results you see?

Mr Cole: Absolutely. Within the submission you'll see we have a failure rate of up to 75%. Three out of four white males fail these tests. This is not a question of colour or ability or anything else.

We have openly advocated outreach programs, at least within the city of Ottawa, and I know a number of municipalities in Metro have done similar. It just makes sense. If you increase the number of people, if you increase the catchment area of people that are applying for these jobs, you will get successful candidates.

There are also some cultural questions, cultural walls that have to be broken down, at least within our specific industry. I know the Asian community is very reluctant to apply to the fire department because in Asia the fire department is not a pleasant job and it's not a job people emulate or people pursue.

These are initiatives that are being done at the local levels, getting out and selling the fire department. We've openly advocated that continually.

Mrs McLeod: I appreciate your responses.

Mr Marchese: What other tests are used to test people's abilities to get in as firefighters? Is it just examinations, or others?

Mr Cole: It's very detailed, sir, and I'll give you a very, very superficial overview of it. On one of the pages in the submission, in a footnote, it goes into some detail on what the testing system would be, page 8, footnote 11.

I think the important point, though, and I think the focus in your question, is that the practical testing has evolved from what it was. I know when I started it was much more simple than today. Everything is focused on the task the firefighter's required to do, and that's why we can confidently say employers have certainly recognized that it's a bona fide system, a bona fide reflection of what the actual occupational requirements are. I'm not sure if that answers your question.

In a nutshell, there are aptitude tests, there are security tests, there are medicals, there's a general fitness test, then there's this very detailed practical test and then there are interviews and—

Mr Marchese: That's fine. Great. Quickly, we had today a submission by McLarren Consulting Group Inc where they say, with respect to issues of recruitment, selection, work assignments and promotions, "In terms of

selecting and promoting people, this pressure often translates into choosing those who afford the best comfort and fit within the existing organization." So what they're saying is they're identifying a problem in terms of how we recruit, how we select people, the kinds of assignments we give and how people are promoted. It's based on "the best comfort and fit." What is your reaction to that?

Mr Cole: I think one of the beauties of—and I'm not certain I understand your question totally, but what simplifies the issue in the fire service area is the empirical nature of the testing, which provides certain levels of comfort as far as determining a person's ability. This isn't a question of, "Are you a Harvard grad, are you a Yale grad?" This is a question of, "Can you do the essential functions of the job and do them within an acceptable window of time?" and aggregate those scores overall. It provides us a little bit of comfort in those sorts of questions, and certainly those are larger, broader questions, conundrums that employment equity struggles with in trying to determine qualifications. I'm not sure if that's—

Mr Marchese: There's no time for me to explore that.

Mrs Boyd: In terms of the question that was asked by Mrs McLeod, there is a range within which people are considered to be qualified. That's true in any profession. You and I don't know where our doctor landed in the range of qualification, or our lawyer, or our teachers, or our children's teachers. I would just say I'm rather puzzled that you would think firefighting is different.

Mr Cole: I have greater comfort in knowing that my doctor didn't finish in the 39th percentile.

Mrs Boyd: How do you know?

Mr Cole: Well-

Mrs Boyd: You don't know that.

The Chair: Thank you very much for the question and the answer. We now go to the government.

Mr R. Gary Stewart (Peterborough): Yes, a couple of very short little questions. Do you believe that discrimination was being practised in the firefighter profession prior to 1993 and Bill 79?

Mr Cole: Oh, not at all. As I answered before, because of the empirical nature of the testing and because of the—I mean, this is a colour-blind, gender-blind system.

Mr Stewart: And I assume you are very high, from what you've been saying, on ability, and I'm talking not only physical ability: mental ability, educational, the whole works.

The other thing that I'm very concerned about is that over the past couple of years it appears that your standards have been raised, which I think is great too. I'd kind of like to have a firefighter, of whatever nationality or gender, being able to get me out of the burning home. One of the concerns that seems to be coming out is the physical tests are being raised all the time. Are physical tests not one of the big areas or emphasis in your particular trade or profession?

Mr Cole: It absolutely is, sir. I don't think it's a great step to—I think we're all comfortable enough in knowing what the fire service provides.

Mr Stewart: I guess what I'm trying to say is that people are saying, "Well, you're discriminating against me because you're raising the standards." You're only raising the standards, in my mind, in the areas that should be raised for the protection of the people of the province.

Mr Cole: Absolutely. I just want to address this section of raising the standards. We did the test in Ottawa in 1988, and a number of Metro departments have adopted the same program with some minor modifications. So where it may appear that there's been an increase in the standard, it may just be the adoption of our programs. Even in 1989, we were very concerned about the direction this program was going, and it actually did increase the system we'd been using, so it raised it that way.

1650

Mr Tascona: I commend you on your submission; it's very detailed. I know the association has been the leader in protecting the rights of its members, certainly in labour relations in this province. Has the association taken any steps or is it considering any in their negotiations, at the city level and even at the provincial level, to promote equality of opportunity in view of the merit principle?

Mr Cole: I can't speak for many of the locals. They may not have addressed it within their collective agreements, but I do know there's been a broad acceptance of outreach, advocating outreach and things like that. It may not be embraced within the collective agreement language, but certainly it's been embraced elsewhere.

The Chair: Thank you, gentlemen. We appreciate you making a presentation to us.

CITY OF TORONTO PERSONNEL COMMITTEE

The Chair: The next group is the city of Toronto personnel committee, represented by Councillor Kyle Rae and Ceta Ramkhalawansingh. Welcome to our committee.

Mr Kyle Rae: I'm Kyle Rae, councillor for ward 6 in the city of Toronto. I'm the chair of the city of Toronto's personnel committee and the co-chair of the joint committee on streamlining. This committee is composed of members of the personnel committee and the budget review group. With me is Ceta Ramkhalawansingh, acting director of the city of Toronto's equal opportunity division. She will assist me in responding to your questions.

I have brought you copies of various city of Toronto submissions and reports, which I believe are coming to you now. I will refer to these and indicate their relevance to your deliberations. I will also provide you with some personal observations about the direction in which you need to head.

Discrimination exists in our society. That is a fact—a historical fact. In 1893, the city of Toronto noted that discrimination existed in the community and passed its first fair wage policy. The city's non-discrimination policy was amended in 1973 to include sexual orientation and political affiliation. That was also the same year in

which the Toronto city council considered the report of the Mayor's Task Force on the Status of Women in Toronto and established a task force on the elderly and the disabled.

The status of women report led the city to examine barriers to women's participation as equals with men in Toronto. Child care, family planning, leadership training, recreation and fitness, pay equity, affirmative action, and outreach programs are just a few of the programs that were identified as being necessary to achieve equality.

All of these were reiterated 15 years later in 1988 at the conference held by the city to consider the situation of women in the workplace.

The representation rate of women in our civic service was less than 15% in 1973. This percentage has doubled in the past 20 years. We still have a long way to go to achieve equal representation between men and women, but we have made significant progress in reducing the wage gap between men and women workers, from 21.5% in 1973 to less than 5% today. Whatever gap exists today is due to the lower representation of women in senior management, and that's only one reason to have goals and timetables.

The wage differential was eliminated as a result of the introduction of a comprehensive job evaluation program which compares all jobs against each other.

I refer you to our briefs made to the province in 1986 on pay equity, to the federal committee on equality rights in 1985, and to the federal Obstacles report of 1982.

The task force on the elderly and disabled, which also met in 1973, examined the employment and access issues for people with disabilities. Toronto city council in 1980 decided to expand its equity programs to include aboriginal peoples and racial and ethnic minorities.

These policies are not hollow. To get to fairness, to get to equity and indeed to a discrimination- and harassment-free workplace you need many measures, positive and supportive. You need policies, you need to have action plans, you need to set goals and timetables, and you also need to have data, and this is where we disagree with the approach the government has taken. It's a fundamental disagreement.

In every other segment of our lives, we use numbers to determine success or failure. The health of our economy is measured by inflation, interest, debt and unemployment rates. The health of a person is measured against heart rates, blood cell counts, etc. Why not measure the degree of equal opportunity by carrying out workforce surveys, by keeping track of the success rates of groups who have experienced discrimination by measuring their representation in the workplace? If you don't have and don't set yardsticks, you will never know how you have dealt with discrimination in our society. What are you afraid of? What is it that you want to do in secret? Do you want to keep privilege for just a few and hide it from being counted?

In 1983, the city considered a report about using a contract compliance approach to achieving equity in the workplace. Some suggested that this was unnecessary and a wrong move for a government. But isn't it the role of government to regulate and to ensure fairness? And how

do you determine fairness? The contract compliance program was a successful program which should be regarded as a model for your proposed equal opportunity program. Data from more than 8,000 firms was gathered between 1989 and 1992.

It is our view that mandatory record-keeping required by the city's policy, the federal Employment Equity Act, and the federal contractors program had a salutary effect on workplaces. We have witnessed improvements for designated groups. Underrepresentation is the strongest form of discrimination. That's what we want to change and that's why you must have data, and you can do it without impeding the work of an organization.

Since 1991, the city has been concerned about its financial situation and embarked on a process of reducing our workforce. Throughout that process we have monitored the impact of workforce changes upon designated groups, and we did not stop our equity programs. We expanded them. We expanded our goals and timetables to every position in the city. We initiated a comprehensive review of the recruitment and selection of firefighters. We introduced a tough and aggressive human rights policy aimed at eliminating all harassment. Although we have reduced the workforce by 15% at the city, we have continued to maintain our representation rates and to work towards an increase. We have targeted every position for the potential hiring of underrepresented groups. This is equal opportunity at its very best.

We were looking at the figures this afternoon and 46.5% of all promotions and appointments since 1992 at the city of Toronto have been filled by a member of a designated group. Although we targeted every position, so it should have been 100%, only 46.5%. Merit was not ignored. It continued to be an important part of workforce skillsets that were needed in those positions, but only 46.5% could be filled by designated groups.

Let there be no confusion about this. This is not preferential treatment. It is not a lowering of standards or an abandonment of merit. Setting goals and timetables is perhaps one of the best ways of ensuring that you do have fairness in the workplace.

In the last few years many workplaces have become safer and more hospitable for the people of diverse groups in our communities. The use of the term "quotas" does not help to create a community which fosters dignity and respect for all people, but creates confusion, hostility and anger. If it is not clear to you, I refer you to the definitions that have been used for the past decade.

Quotas are rigid and often encourage filling of vacancies without regard to qualifications. Quotas, which are often fixed percentages, have to be maintained. They tend to be imposed by external bodies such as the courts, and to our knowledge are not enshrined in any legislation anywhere.

1700

Goals—and that is how the city has achieved employment equity—on the other hand are determined by the organization and are flexible measures of progress towards the achievement of employment equity. They are reasonable, they're achievable and pay attention to the

organization's structure and to the qualifications of the position.

The city of Toronto does not support the use of quotas, nor were they required in the Employment Equity Act.

When the city approved its first formal policy in 1977, it was called an affirmative action program. This was changed almost immediately because we recognized the power of the language. We decided instead to call our program an equal opportunity program.

What we said almost 20 years ago was this: "Special measures are to be developed within the city's policies of merit employment and progressive human resources development.

"The equal opportunity program is a strategy of planned active measures designed to ensure equal opportunity for all employees and will be clearly distinguished from the already existing, more passive approach of non-discrimination. The program is results-oriented and will involve positive action by management."

Even with these policies, council has continually focused on the need for change, moving from setting goals for some positions in 1982 to goals for all external positions in 1985 and then to all vacant positions in 1992.

This policy approach of fundamentally incorporating equity into all aspects of our work improves the quality of the city. It improves the quality of the services we deliver. It improves the relationship between government and taxpayers. In other words, an inclusive city is a healthy city.

When you review this bill on a clause-by-clause basis, what should you consider? (1) Rename the act; (2) require that data be compiled by employers.

You should also restore requirements under the Employment Equity Act to carry out systems reviews, to hold consultations with designated group members and to introduce internal complaints procedures. All of these ought to be components of any equal opportunity plan.

Finally, positive and supportive measures need to be in place. Restore funding for TTC cuts. Do not cut day care funding. Provide proper benefits for workers and recognize same-sex spouses as full partners. Restore support for affordable housing and welfare. Restore funding for training and education programs. Be inclusive. That's true equal opportunity.

Mr Marchese: Thank you for your presentation. I guess we've heard on the other side that they believe that discrimination exists and that it's bad. The difference is, they say government should not intervene and we say government must intervene to redress inequities in society.

David Lepofsky, a constitutional lawyer, talked about the fact that if they wanted to address issues of quotas and merit, they could have done so by introducing language in the bill, so that if they're against quotas, they could introduce language in the bill that clarified that, including merit, but obviously they didn't want that. They went beyond it.

He also adds that without the club, voluntary measures will not work. Both of you have had different experi-

ences—one is a politician and one is a civil servant—for quite a long time now. Is it your view that voluntary measures can effectively address issues of inequity?

Mr Rae: I believe that it is necessary to set goals and timetables. Why I say that is having worked at the city as an employee first and having to fill out the quota forms—not the quota forms. What do you call them?

Ms Ceta Ramkhalawansingh: Equal opportunity.

Mr Rae: Equal opportunity—no, no, there was another form. There was another form.

Ms Ramkhalawansingh: Utilization—

Mr Rae: The utilization form. The information that we were gathering, filling those out as a director, gathering that information, sending it to the city and then being able to work through the information that we provided was essential.

But also being part of the city now as a director, what is interesting is to watch how each department becomes proud of the equal opportunity goals and timetables it sets, and each department sets its own. They work together. There's a collegiality that they're working as a system to try and eradicate systematic discrimination. That is why, I think, a voluntary system doesn't achieve that. When you set the goal for a bureaucracy and say that this is an essential part of what we think makes a good civil service, they all work together. I think that's one of the key things I've found in this process.

Ms Ramkhalawansingh: I'd like to add, on page 46 of the attached document you will see a set of data from our contract compliance program. Mandatory data filing was a requirement if you wanted to do business with the city between 1989 and 1992. You will see that from a preliminary survey done in 1984, the representation rate of women among our suppliers was 30%. By the time we got to 1992, that had changed dramatically to about 46%. We attribute a lot of those increases to the fact that they had to scrutinize their workforce and to provide that data to us. We feel that the effect of mandatory filing was very significant in this entire process. I believe that the experience of both the federal contractors program as well as employers covered by the federal employment equity legislation also found the same results.

The Chair: Thank you very much. I have to go on to the government party.

Mr Young: I'd like to ask Councillor Rae, it's unclear to me, are you speaking in this submission for yourself or for the city of Toronto?

Mr Rae: The city of Toronto. This is a city of Toronto policy.

Mr Young: This is endorsed? I'll tell you why. Because some of the questions on the back, or the suggestions, don't relate to employment equity and I just wondered if that was endorsed by your committee.

Mr Rae: They do deal with the issue of positive and supportive measures. Those issues are in the rest of the submission, if you go through the—

Mr Young: Affordable housing and welfare and training and education programs and day care funding really don't pertain to this issue per se, but we'll leave that for now.

Mr Rae: I would disagree with you. They are positive and supportive measures that make work accessible to people.

Mr Young: I want to take exception to what one of my colleagues said earlier. The Progressive Conservative Party does agree with government intervening to make society fair, and we're looking at a Human Rights Code, a beefed up Human Rights Code. What we don't agree with is job quotas. I wanted to ask you, what is the difference between a flexible measure with a \$50,000 fine and a quota?

Mr Rae: That is the recommendation of the bill?

Mr Young: That's what's in Bill 79, a \$50,000 fine for businesses that are trying to survive, not the wealthy city of Toronto, that has enough money to do whatever they want, but a \$50,000 fine. What's the difference?

Mr Marchese: Between that and a quota.

Mr Rae: Is it related to quotas? Would you want to answer that, Ceta?

Ms Ramkhalawansingh: I don't believe that requirement related to the setting of quotas. I believe the requirement had to do with other obligations under the act, so I think you might want to actually read the bill.

Mr Young: I assure you I've read it. Thank you for the advice.

Ms Ramkhalawansingh: I don't think it says that.

Mr Maves: Quickly, on the collection of data: Did you have numbers measuring your workforce prior to Bill 79?

Mr Rae: Yes, we did. We've been keeping-

Ms Ramkhalawansingh: Since 1981.

Mr Maves: Are you aware you can still keep that?

Mr Rae: The city of Toronto is going to maintain its equal opportunity program, despite what you do.

Mr Maves: But that data, you're still—

Mr Rae: We're still collecting it. We did not need your legislation to collect this data.

Mr Maves: On the collection of data by race, I wonder, do you draw a line on that? I don't like the idea of keeping crime statistics by race and things like that, but do you draw a line or do you think data by race is fine?

Mr Rae: It's my recollection, when I was filling out those forms with my staff, that it was self-disclosure, that it was up to the staff to disclose if they wished to or not. It was voluntary.

Mr Mike Colle (Oakwood): Councillor, the question I have is part of the bill is going to dictate that all municipalities, like Toronto, destroy all their data they've been acquiring on employment equity. What do you think of that proposal?

Mr Rae: It goes beyond—I don't understand why they would want to move in that direction. We have been able to show through our program that we can make a difference, that we can make employment opportunities available to people who traditionally have not had access. So to destroy this information which helps us build a picture of discrimination and then sets us on a course to

fix it, I think is going in the wrong direction. It's like you want to deny that it's happening, therefore the best way to do it is by destroying the records. It reminds me of some states that have done it in the past to hide the fact that they've been terrorizing—

Mr Colle: They burned books, I think.

Mr Rae: I think they burned books. One of the things I'd like to mention is that when my father arrived in this country in 1951, it was not what his merits, what his job skills were that got him a job, but it was what school did he go to, what did his father do and what part of Glasgow did he grow up in. I think that still happens in this country and I don't think that's healthy.

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Mr Colle: Just one other quick question, because I know you were certainly intimately involved with the challenges you had with the firefighters of the city of Toronto.

Mr Rae: Intimately.

Mr Colle: What's one, you might say, cogent piece of advice you might give in dealing with that challenging area of getting over the qualification and the physical constraints and at times opening up the firefighters to people from all walks of life?

Mr Rae: One of the things that I've found in the process is that there are some people who would like to hide behind super qualifications to be able to exclude other people. You will set standards that only very few people can afford to achieve, and I think that's what I was witnessing in dealing with the fire service; that you make people so overqualified that they get in and the people who can't afford or haven't got the ability fall behind and are not able to be hired. That's what happened with our system.

People who I think would have made fine firefighters, be they fire inspectors—and you don't have to drag a person through a building to be a fire inspector—or work on the trucks—you don't need to be a bodybuilder for some parts of the fire service. I think super qualifications have been used by some to exclude designated groups.

The Chair: Thank you very much, sir.

Mr Rae: The other thing I'd like to answer is that there is a failure to continue to measure once they get in.

The Chair: Excuse me, sir.

Mr Rae: Five years later, are they still at that physical capacity?

The Chair: I've been quite generous with your time. Thank you very much. We appreciate your attendance here.

Mr Rae: Thank you.

ORGANIZATION FOR QUALITY EDUCATION

The Chair: The next group is the Organization for Quality Education, John Bachmann and David Hogg. Good evening, gentlemen, and welcome to our committee. You have 20 minutes to use as you see fit. Questions, should you have time for them, will begin with the government.

Mr John Bachmann: We, as the Organization for Quality Education, have some concerns about the issue of

quotas and the school system and the impact it would have on the quality of education, and we appreciate having a few minutes today to bring those up with you.

My name is John Bachmann; I'm the president of the organization. With me today is Dave Hogg, the vice-president. We had to put this presentation together kind of over the phone, so I apologize for the fact that it's in two separate pages for you, but we'll try to put the thing together in the next few minutes. I'll ask Dave to start with his section first.

Mr David Hogg: My brief to this committee in support of Bill 8 is based on three principles:

One, respect for others: I do not believe that the qualities we admire in people—integrity, intelligence, diligence, determination, ability to serve and care—are the sole preserve of any one group of people. Two, fairness and reasonableness; three, negative or positive legislation. I would like to talk to you about each one of these.

Respect for others: I quip that in my family there is quintessential multiculturalism. I left England in 1960 to help start the first multiracial school in East Africa. The word "multicultural" was not yet invented, I believe, and my spell-check still does not recognize it as a word. I met my wife in Kenya. In my family there are two Africans, three Canadians, one East Indian and one internationalist. Having lived for long periods on three continents and travelled widely, I empathize with many places and many people.

During my travels, it has never been difficult to find good, to find common bonds. Good people come in all manner of different sizes, shapes and shades. I don't really know why we have to stress this, it seems so fundamentally obvious.

It was therefore disturbing for me to read yesterday about research out of the Ontario Institute for Studies in Education (OISE): "Drawing on the experiences of students...often alienated by traditional high schools. Many cannot identify...with mostly white teachers...." It is trite to say that teachers judging students or students judging teachers by the colour of their skin is so superficial it will lead to superficial conclusions. Surely the matter of importance is whether the teacher can transmit learning and the student absorb it: good teaching, good learning. How did we get off on a tangent? How did we come to this state of affairs?

My years of experience in the multiracial school in Kenya were very different. At first, all the teachers and only a few students were white. The cultural chasm for some of our students was enormous. They had never even seen a meal place setting. The curriculum and examinations were English and therefore, in Ontario idiom, were not culturally sensitive. Our approach as teachers was pretty unsophisticated: Treat and teach the students decently, work and play hard together. The results speak: Almost every student qualified for university, many to world-class universities.

Students and teachers developed a deep affection for the school. It did not seem difficult. The exercise of simple respect is not difficult. There seems to be plenty of opportunity in our society for construction in the place of destruction. I know many, including my own family, some of whom are an invisible minority, who are offended by the concept that skin colour and sex may be gating job qualifications when the work involved is not related to either. They want to be judged on ability, not appearance, which latter they would consider belittling and demeaning if it was not germane to the job.

Having given you these thoughts, I'd like to hand off to John to continue.

Mr Bachmann: If minority students truly cannot identify with white teachers, we don't feel the best solution to this problem is quota hiring of teachers. Instead, we should be looking for other ways to bring meaningful minority presence into our schools.

Our first suggestion would be to encourage more community involvement by expediting the implementation of school councils. Such councils will have a significant community component, and in the case of a community with a sizeable minority population, this component will likely include strong representation from minority groups. Appropriately empowered—and this is very different from the situation we have in the schools today with parental involvement—these councils are more likely to develop locally appropriate approaches for dealing with the alienation of minority students.

Our second suggestion would be to enable the establishment of charter schools that will define themselves around different instructional approaches or subject emphases. Such schools should not be allowed to differentiate themselves on the basis of race, since most members of minorities that we've spoken with are not interested in ghettoizing their children through voluntarily segregationist schools.

Underpinning actions on any of these fronts, though, we must maintain an uncompromising insistence on high standards of instruction, literacy and numeracy for teaching staff. At all grade levels, teachers and their assistants must have the ability to communicate clearly and correctly in either English or French, and at the middle and secondary levels we must insist on mastery of the subject matter by the classroom teacher.

OQE does not subscribe to the assumption, lamentably so, within much of the public school system that some minorities, because of various circumstances, are not capable of achieving as well as the general population. The system then goes on to argue that we should reduce our expectations of these students and not traumatize them with things like standardized testing. We feel this mindset is, in the least, patronizing and, at worst, insidiously racist.

In OQE's view, the solution to minority problems within our schools does not lie in the direction of quotas but in challenging minority students to do as well as any other students and then encouraging community involvement and alternative approaches through school councils and charter schools to get these things to happen.

The change that results from this approach can be as immediate as a quota approach, we feel, without the negative generating of a quota backlash, and has the additional benefit of being more profound, through community involvement, and longer lasting.

1720

Mr Hogg: I'm going to pick up where I left off.

The second principle that I had was fairness and reasonableness. These are pillars of society, but can they be legislated? Should they be legislated? Is it fair to legislate in one area and not in another? Why would we do that? Isn't that the route to unreasonableness?

I'm far from being an expert in basketball, but it seems to me that small people are grossly underrepresented in that profession. Should legislation be introduced to open the sport to tiny people? And while we're at it, do we want to address the profession of jockey?

I do not want to trivialize a serious issue, that of executing particular tasks particularly well, but I sense there is a road that either leads nowhere or leads to irrelevance. I know I never had the requisites or the opportunity to perform even adequately as a jockey or in basketball. Why would I or anyone want legislative support to be second-rate? Would that corrode and compromise my dignity as a person?

Negative or positive legislation: From an educational perspective, the compelling and urgent sense is for a move to the best education each individual student can absorb. Rather than using punitive legislative force to restrict employee selection, at best a negative imposition, the government of our day would be well advised to legislate more pervasive opportunities for quality education as a qualification for quality employment and job satisfaction. OQE would be delighted to participate in that positive activity.

Mr Stewart: I've sat here for the last three or four days and listened to many, many presentations, and when I look at your presentation, that has words like "fairness," "reasonableness," "respect for others," it leads me to believe that maybe discrimination is not our problem, that our problem is attitude. Can we legislate attitude? Is that what this is all about?

I believe honestly, after listening to this, and many presentations have been extremely discriminatory, that one of the biggest problems we have is attitude. Can you as educators or in OQE change that and start to work on that end of it and could it be of advantage to us?

Mr Hogg: I think it can be changed. My problem, of course, as you see, and I think our collective problem is, can you legislate changes of attitude? I don't believe you can.

Mr Stewart: You can't, sir. That's why I asked.

Mr Hogg: I knew that you knew the answer.

Mr Stewart: Do you not think that's a start and that's where we're coming off anymore, or part of it?

Mr Hogg: I've got to go back to my experience that was so successful. In the school where I taught—and I taught for a period of years there, six years, so it wasn't a quick in and out—we had 400 applicants for every native African position in the school. That showed that even though the staff was predominantly white, the students respected what they were going to be offered within that school.

I think this is where you come from, that you have to change mindsets. I don't believe you can necessarily legislate behavioral changes. What you have to do is to go through behaviour substitution. If somebody believes that violence is an appropriate way to go, you have to show them and somehow change their hearts so that they realize that support and help is really a far more satisfying activity to indulge in and that it's more beneficial to them and the people they deal with, and that society, as a result, grows from it. I hand over to John.

Mr Bachmann: I really don't have much more to say on that.

Mrs McLeod: Mr Hogg, in your presentation you note that many, including your own family, would be "offended by the concept that skin colour and sex may be gating job qualifications, when the work involved is not related to either." Do you think that skin colour and sex are gating the entry to jobs, and if so, in what respect?

Mr Hogg: If you legislate quotas and the term we come up with is "visible minorities," the only way you can relate a visible minority is some visual differentiation, so whether it happens to be sex or the shade of a skin colour, that is what is implied.

The legislation has been in place. Obviously, my children are half-breeds, to use the offensive term that used to be used in the past. Nobody seems to use that anymore, but that's the reality of the situation: They're half Indian and they're half English. This has come up in discussion, and let me tell you, when it did, it was so offensive to them they didn't even want to talk about it. One of my children is visibly Indian and the rest of them could pass as Greeks or Italians or whatever, but I know this is offensive to them, that they should play on that to gain some sort of edge. What they want to do is to compete fairly on their qualifications and their abilities and skills, and this is resident in their human dignity. They would feel then that they had obtained the job and kept it because of that ability and the contribution and value added they would make.

Mrs McLeod: I think everyone would agree with that. When I read "gating job qualifications," my assumption was that skin colour and sex often keep the gate closed, but you seem to be suggesting that it arbitrarily keeps the gate open.

Mr Bachmann: Under quotas, a lot of the feedback we're getting through our members about the school system and places where some affirmative action programs seem to be taking place is that the standards are being lowered. I was talking to a teacher last week who happened to be sick one day. I know this is an anecdote, but the supply teacher could not correct grade 3 English grammar, and that was a person in a minority. That reflects poorly on that person, and I don't think it's fair that we have a system like that. We have reports of teachers who can't make themselves understood to the students so they have a tough time learning. We would just like to see common standards.

Mrs McLeod: But surely, just for the record of the committee, we can all cite numerous anecdotes of teachers whose ability to correct grammar we would be concerned about, where neither skin colour nor gender was the deciding factor.

Mr Marchese: Mr Hogg, would that the world were fair or just, and who doesn't respect principles of fairness and respect for others? We all agree that these should be basic principles. If the world were fair, we would not be dealing with this issue of employment equity. If equal opportunity were working, we would all be happy and wouldn't have to legislate anything. The point is that it's not working.

For people of colour, say, we've seen the statistics that they're very qualified, but their qualifications do not necessarily give them access to employment. They want to be judged on merit. They're saying: "If merit is the key and qualification is the key, why aren't people hiring us? They're not hiring us because of discrimination—not attitude, but because of discrimination." What are you saying, or what is your response to that?

Mr Hogg: I agree that the world isn't fair, and I also have personal experiences. When I came to the country I had a couple of reasonably high-quality engineering degrees to my credit, and when I came in there was discrimination because they were asking for Canadian experience. If you have a nut and bolt and it happens to have been made in Kenya or India or wherever, who cares? I found that somewhat unreasonable and distasteful. However, I did get a job, and you overcome these things. I think it's somewhat understandable that an employer would want you to be instantly productive. Some employers no doubt have shorter-term visions and some have longer-term visions.

Mr Marchese: My point is that there is discrimination based on colour, and my additional point on disability is that people with disabilities say, "When people look at us and listen to us, that doesn't give us access through that door." Your answer continues to be, "You plug away, you struggle, and eventually fairness will be achieved." They're saying, "No, it doesn't work that way."

Mr Bachmann: Do you really believe that today in our public school system there are people who are excluded because of their colour if they have the qualifications?

Mr Marchese: Let me tell you, because I was a teacher for a while and I was a trustee for eight years full-time when I quit teaching to do the other job, I've read studies which show that in grade 1 the teachers were able to pinpoint who was going to make it and who wasn't going to make it—in grade 1, not grade 8 or 13. Race and socioeconomic status were determinants, in their minds, of who was going to make it. How do teachers shape that differently? They weren't shaping it; they already determined who was going to make it. Yes, it happens. Do teachers say this is something they do consciously? It's there.

Mr Hogg: This brings us to a very important—

The Chair: Unfortunately, our time is up, gentlemen. We appreciate your appearance before us and your interest in our project. I hate to cut you off.

1730

Mr Hogg: I'd just like to say that we have had an instance where school boards aren't working. We agree with that.

ALICIA PAYNE

The Chair: Our next presenter is Alicia Payne. Welcome, and the floor is yours.

Ms Alicia Payne: Committee members, thank you for providing me with an opportunity to be here. I am here before you to say that I wish there was no need for employment equity legislation. I wish this because it would mean that we lived in a society where we respect one another, celebrate our differences and recognize our similarities, a society in which we acknowledge the fact that we are all human beings and are equal.

Many people mistakenly believe that racism and discrimination are no longer problems in our society. Acts of discrimination often remain invisible to some members while they are blatant to those who continue to experience them. Modern forms of discrimination are insidious. They have become acceptable. Many of them are so ingrained in our collective conscience that they are systemic.

Employment equity is one way to combat and rectify systemic discrimination while establishing a model to prevent discrimination from manifesting itself in employment practices of the future. I sometimes hear people say that employment equity is unfair because it is meant to address systemic discrimination from the past. What they forget is that systemic discrimination still happens—right now, in the present.

For example, because of an oversight in our legal system, Ontarians lack protection from discrimination by foreign-based employers who are not designated as "operating" in Ontario by the Ministry of Consumer and Commercial Relations. The Ontario Human Rights Commission, Canadian Human Rights Commission, Employment Equity Commission, Ministry of Labour and the federal departments of Foreign Affairs and International Trade all claim that they have no jurisdiction over foreign-based employers.

With employment equity, employers can identify barriers in their hiring process and remove them. They determine their own goals and develop their own plans and timetables for complying. Employment equity is not a quota law. Since when is analysing resources and setting numerical targets bad for business? The business community frequently uses statistical information to monitor their industries. They then set all kinds of numerical targets for sales figures, expansion of client bases and capturing of market share. Why the outcry when it comes to analysing our human resources and setting numerical targets to ensure that our workforce reflects the community?

Many myths exist about employment equity. One such myth is that employment equity leads to lower standards and the hiring of unqualified applicants. What an insulting assumption. Employment equity assumes that you can find qualified employees within the designated groups. People who insist that employment equity will result in unqualified people being hired are insinuating that people from the designated groups are inferior and therefore will be unqualified.

Let's talk about qualifications. Is there always only one most-qualified person or best person for a job? Think of how many times you yourself may have applied for a job and been turned down. Do you really believe that you and everyone else who didn't get that job were unqualified? Or is the reality probably that you and some of the other applicants each offered different qualifications and could have done the job but there was only one opening?

How do we decide who is the most qualified? Employers don't usually give candidates an opportunity to perform the actual job they're applying for in the environment in which they will be working. Therefore, comparisons between candidates are not usually based on actual job performance. That's one of the reasons employers have probationary periods. New employees don't always work out, even with impeccable qualifications on paper and excellent references. Consequently, do we truly hire the best person for the job or do we hire someone we think will be the best person for the job?

The way we think is influenced by many things, including our personal experiences, personal preferences and the prevailing attitudes of the society we live in. The existence of racism and discrimination is irrefutable within the historical context of Canadian society. There was the mistreatment of aboriginal peoples. We had slavery right here in Canada between 1628 and 1833. It was legal and it was practised. Canada had racist immigration laws which discouraged and barred non-whites from entering the country. The Chinese Immigration Act is one example. Canada also refused to accept Jewish refugees escaping from the Holocaust.

The attitudes that permitted these abuses have not disappeared. There is modern-day evidence that certain groups are still discriminated against and denied opportunities for full participation in society. The attitudes that breed hatred and result in discriminatory behaviour are very present in our society. There is cause for much concern in the growth of the Heritage Front and similar organizations not just here in Ontario but around the world, and the racist behaviour of Canada's so-called peacekeepers in Somalia. Dare I mention the racist and sexist comments of not one but two of Quebec's leaders? And what about the comments made by the mayor of Markham, Ontario? To paraphrase Professor Irving Abella, how have we allowed ourselves to become a nation of immigrants who hate immigration? Discrimination in the workplace is very real.

In 1988 the Canadian Recruiters Guild released a study suggesting discrimination was rampant among professional job recruiters. In 1991 the newspaper headlines in Toronto reported an Ontario Human Rights Commission raid on two employment agencies, TES and Ian Martin. These agencies were discriminating against candidates on the basis of such things as age, marital status, religion, physical handicap, ethnic group—or at least the ethnic group the consultants thought the candidates belonged to—and accent.

Employers were asking these employment agencies to break the law and the agencies complied. Members of the four designated groups under employment equity are particularly susceptible to this type of discrimination. Ultimately, all Ontarians are susceptible.

What were the agencies doing? They were coding job application forms and résumés. For example, a paper clip

on a résumé could mean Chinese and an asterisk beside a name could indicate that the person is handicapped. Sometimes they would simply write "Black" or "Jewish" or "Married" on the forms.

In 1991 the Toronto Star interviewed several agency consultants who admitted that coded language, verbal and written, is one way to meet discriminatory requests without getting caught. The consultants could shield clients from workers who wouldn't "feel comfortable" or "fit in." In one agency, "As a rule of thumb, visible minorities were sent over for filing or accounting positions out of the public's view."

This type of discrimination is insidious. It's easy to hide and it's difficult to prove. In fact the Ontario Human Rights Commission became aware of it only because a former employee of both agencies came forward with the revelations. This type of discrimination still happens today.

These two agencies were caught. Were they the only ones? What about all the employers who asked them to discriminate? Many of these companies are probably still operating. What changes in the system have been put in place since 1991 to stop employers from making these discriminatory requests? Employment equity legislation is a measure to protect employees from this type of discrimination.

What happened to the two agencies? Despite evidence which some commissioners thought clearly showed that the agencies were breaking the law, the Ontario Human Rights Commission chose to settle the matter at the regional level.

A policy manual at one agency stated:

"Because most of our staff work on the premises of clients and must fit in well, we find that a person's 'fitability' is almost as important, if not more important, than her actual skills.... Usually unstated preferences or prejudices will exist with the particular individual on the client's staff for whom our girl will work. Such should be determined as quickly as possible, usually by an indirect approach, and taken into account when assigning someone. Also such items as young/old, citizen/non-citizen etc can be important."

Remember, employers were asking the recruiters to discriminate and the recruiters complied. It is now 1995 and the file on these two agencies was apparently closed this month. How was the situation resolved? I don't know. Since the case was resolved at the regional level and did not go to a board of inquiry, the settlement is confidential between the agencies and the OHRC. It is not a matter of public record. Is there any doubt that the behaviour of these two agencies had the effect of denying people equal opportunities to compete for jobs? How is the public interest being served by keeping these settlements secret?

Members of designated groups usually have less seniority than other workers. Remember, these are the groups which have faced the most damaging and persistent kinds of discrimination in employment. The current economic climate and trend towards downsizing means that many of the gains made by the designated groups are already becoming undone. In times of economic difficulty and high unemployment, people fear for their jobs, so they don't report discrimination as much. They put up with it. They shouldn't have to.

1740

Repealing employment equity and replacing it with a non-legislated equal opportunity plan means that employers who have consciously or unconsciously discriminated against the designated groups can and will continue to discriminate unless they are held accountable for these actions.

Minister Marilyn Mushinski claims that one of the reasons for repealing employment equity is that the Ontario Human Rights Commission can deal with the complaints. The OHRC already has an enormous backlog of cases and its present system actually discourages people from filing complaints.

Employment equity legislation helps prevent individuals in the designated groups from encountering the type of discrimination that has resulted in the backlog that rendered the OHRC dysfunctional. Why continue to send individuals to the commission with the same types of complaints? Why not help larger numbers of people at the same time by preventing discrimination in the first place?

Even with the support of the law, investigators at the OHRC don't always get the cooperation of employers. How will replacing employment equity with a non-legislated—therefore optional compliance—equal opportunity plan deal with the very real problem of racial discrimination in the workplace? It won't. How will encouraging victims to go to the already overburdened and dysfunctional OHRC help deal with the problem? It won't

What of the already enlightened employers who voluntarily intend to continue with employment equity initiatives even if Bill 8 goes through? How will requiring proactive employers to destroy the information they've already gathered help deal with the very real problem of racial discrimination in the workforce? The passing of Bill 8 would also adversely affect proactive measures in the areas of policing and education.

The Canadian Association of Chiefs of Police how-to manual 2, Police Race Relations: The Recruitment, Selection and Retention of Visible Minorities, states, "In ongoing efforts to improve race relations in Canada, the Canadian Association of Chiefs of Police passed a resolution on employment equity at the 1992 annual conference in Victoria, BC." The police are starting to develop forces that will reflect the communities they serve. Why does the government want to reverse these advances with Bill 8?

Education: Let us not forget that schools in Ontario were segregated until 1964. As Carol Tator has said, "Unless sweeping changes take place which penetrate all aspects of educational practice, our society's racist culture will continue to be transmitted to our children."

If anything, employment equity legislation is not comprehensive enough because it does not apply to every employer in the province. Employment equity legislation helps combat discrimination in the workplace and provides a model to prevent it from happening again, regardless of how the demographics of the population and the available workforce change.

In many ways our society is still tolerant of discriminatory behaviour. It has been said that discrimination is against the law under the Human Rights Code, the foundation for equal opportunity in our province. The OHRC is the enforcer of that code. We only need to look at the dysfunctional state of the OHRC to realize that equal opportunity in this province has no stable foundation.

Discrimination may seem like a serious crime on paper, but when it comes time to enforce our laws, discrimination is a low-priority crime. Right now, the OHRC is not helping victims effectively or efficiently. Those lucky enough or resilient enough to get help sometimes have to wait five to seven years for a resolution.

How would you feel in this situation? You're the victim of an assault. You know your attacker and you have the bruises to prove it. You call the police and report it. The police say: "Have you tried talking to the person who allegedly attacked you? They might not know what they did or maybe it wasn't done on purpose." You say: "No, I haven't spoken to them. Did you hear me? I just said I was attacked." The police say, "Call back after you've tried talking to them." You call the police back and they say, "Okay, we'll talk to them and call you back." The police call you back six or seven or eight months later and say, "We talked to the alleged offender and they said that nothing happened the way you said it did."

Perhaps you start to get agitated. You know that you're not imagining things. You were attacked. You assure the police that you're not overreacting and you ask them to investigate. The police say, "Okay, we'll start our investigation in about a year or so. Maybe." How would you feel if the police didn't bother to investigate at all? Would you be outraged? Most people would be. Victims of discrimination are routinely treated this way by the OHRC.

Would we as the individuals who make up our society tolerate the police routinely telling crime victims that they don't know when they'll start their investigation? I hope not. Why then do we let the OHRC do this? The OHRC polices discrimination crimes. Why do they start many of their investigations a year or two after the crimes have been reported? That's if a case even gets to the investigation stage.

Our government doesn't intend to reform the OHRC until, and I quote, the "longer term." Just how far away is the longer term? Much of the public is unaware of how extremely dysfunctional the commission is. Far too many victims of discrimination know. You'll know too if you read The Donna Young Report, The Handling of Race Discrimination Complaints at the Ontario Human Rights Commission and/or Dysfunction in the Human Rights Complaints System. I've provided copies of both; I urge you to read them.

How does addressing the problem at the OHRC in the undefined longer term help victims now? Employment equity plans will include measures to benefit most people in the workplace, not just the designated groups.

From recent events in this province, it is obvious that the government is committed to repealing employment equity legislation. Employment equity is not reverse discrimination. The very term "reverse discrimination" implies that initial acts of discrimination have already occurred. It is extremely selfish for any dominant group to cry reverse discrimination whenever disadvantaged groups try to address employment inequities.

The government is misguided in thinking that Bill 8 will "restore fairness in hiring," as they have stated. How do you restore something that never existed? Employment equity isn't about taking opportunities away; it's about eliminating barriers to employment and ensuring that all groups have the same advantages and opportunities.

Non-existent employment equity legislation, coupled with a dysfunctional Human Rights Commission, will leave a gaping wound in our society. A non-legislated—read optional compliance—equal opportunity plan will not be enough to fill that wound.

Why obliterate employment equity? Why not capitalize on its strengths and strengthen its weaknesses? If it must go, employment equity should be replaced by stronger and more comprehensive legislation that will really lead us towards discrimination-free workplaces: powerful legislation that will recognize past and present inequities.

Failing that, the government should reform the Ontario Human Rights Commission now, not in the longer term. The reforms must address discrimination in both hiring and promoting practices. If employment equity is repealed and replaced by a non-legislated plan, then we Ontarians are at the mercy of the OHRC to defend our human rights.

According to Premier Michael D. Harris, "Discrimination is against the law under the Human Rights Code, the foundation of equal opportunity in our province." I have this to say: Since the Ontario Human Rights Commission is the cornerstone of that foundation, the foundation has crumbled and we in Ontario have much to be ashamed of.

The Chair: Thank you very much for your presentation. All of the time allotted to this particular witness has been used up, so there's no time for questions. We appreciate your participation in our process.

The committee stands in recess until 7 o'clock. This morning Mr McLarren said he had some other information available that he would share with us. He has now made it available for anyone who's interested. At 7 o'clock we reconvene.

The committee recessed from 1749 to 1908.
BLOOR INFORMATION AND LEGAL SERVICES

The Chair: The first group is the Bloor Information and Legal Services, represented by Surjan Zirvi and Anna Pratt.

Just to remind the board members, and a special welcome to Mrs Caplan and Mr DeFaria, who are here for the first time tonight, tonight's presentations are only 15 minutes rather than what we were doing this after-

noon, so you folks have 15 minutes to use as you see fit, leaving time for questions. The floor is yours.

Mr Surjan Zirvi: Thank you very much. We will not use much of your time. We'll perhaps finish our presentation within a few minutes.

Honourable members of the hearing committee, we are here from the Bloor Information and Legal Services to urge upon this government not to repeal the Employment Equity Act.

Bloor Information and Legal Services is a community-based information centre and legal clinic which provides services to communities in the west end of the city of Toronto. We have 11 staff members and provide services to our communities in English, Spanish, Portuguese, Punjabi, Bengali, Hindi and Urdu. We appear before this committee both as community advocates and as employers who believe in employment equity.

We support the Employment Equity Act in its goal of removing systemic barriers in the recruitment, hiring, retention, treatment and promotion of employees. As community advocates we know that systemic discrimination in employment in Ontario does exist. Persons who belong to the groups designated in the Employment Equity Act—racial minorities, aboriginal, persons with disabilities and women—do experience higher rates of unemployment than other people and are underrepresented in most areas of employment. We hear the experiences of discrimination in employment from persons within these designated groups when they come to BILS, our agency, for assistance.

We beg to disagree with the statement of the minister that the said act ought to be repealed because it introduces a quota system for hiring and promotions. The act nowhere commands any quota figures, neither does it say that it applies to all employers uniformly. The act is not inflexible either. All it says is that each employer should develop his or her own individual plan for hiring and promoting on the basis of requisite qualifications without any prejudice to gender, race and disabilities.

Yes, the Human Rights Code is there and it prohibits discrimination in employment, but it is our experience that the existence of this provision has not had a significant impact on redressing employment discrimination. The code has been a part of law of this province since 1981, and still systemic discrimination in employment persists. Moreover, the code sets up a reactive system to discrimination which requires a complaint before there is action taken. Alternatively, the Employment Equity Act created a proactive system which required initiative on behalf of employers to examine their workplace practices for potential barriers and to take steps to redress those barriers.

There are significant delays involved in the processing of a human rights complaint such that it could involve several years before the Human Rights Commission finally resolves the issue involved in the complaint. This period of time can act as a deterrent to potential complaints. The advantage of proactive legislation which requires an employer's action within a certain time frame is that it puts the responsibility on the employer to address discrimination now rather than to wait for possible individual human rights complaints.

The groups identified in the Employment Equity Act have been historically disadvantaged in employment. The limited resources and mandate of the Human Rights Commission make it extremely difficult for the commission to accelerate the rate of progress for those groups which have been disadvantaged for so long.

As an employer we prepared and followed an antiracism plan of action prior to the introduction of the Employment Equity Act because we saw the need for this kind of plan for our workplace. We actively recruit throughout the communities in Toronto in order to ensure that qualified persons are aware of employment opportunities at BILS.

Prior to the introduction of the act, we believed that we were a model employer with respect to ensuring that discrimination was absent from our employment practices. Throughout implementation of the act, we learned that there were barriers in our practices also, particularly in qualifications that we used for hiring new staff.

We again urge upon this government not to repeal the Employment Equity Act. We believe that this legislation is crucial to ensuring that the systemic discrimination in employment is addressed in Ontario. We need legislation to ensure that qualified persons have access to employment without barriers based on gender, race and disability. We need legislation to ensure that employers set fair hiring standards, recruit actively and make hiring decisions in a non-discriminatory way.

The Chair: We've got a few minutes for questions, starting with Mr Marchese. You have about two and a half minutes, sir.

Mr Marchese: We believed, and as NDPers we still believe, that government needs to intervene in order to bring about justice and alleviate or reduce discrimination and inequities. They say they oppose discrimination but that we should do this whole matter of equity in a voluntary way.

One of the members, Mr Young, said they too believe in intervention, but it should be through the Human Rights Code. We argue the Human Rights Code and Human Rights Commission respond to people's complaints where in fact they do respond or put a complaint through. We know there are thousands of people out there who don't even know how to do that and do not do that; we know that where they do, there are delays anywhere from one year to five years or seven years.

They say they're going to be fed up; I say they're not. They're not going to put much money into that, and even if they do, it doesn't deal with systemic discrimination. Do you have a view on that?

Mr Zirvi: As I've already mentioned, the human rights process is very delaying, and very rarely do cases go to human rights. I have absolutely no figures about that, but it's not a question of one person; it's a question of groups, of sections of the society which are deprived of an equitable approach or access to employment.

I think, as we have already mentioned in our presentation, that government intervention is a necessity, even if it is in the shape of guidelines to the employers, and this should be done. In our view, the act which the government intends to repeal gives only those kinds of guidelines to the employers and leaves it to them to develop a plan of their own to ensure that equity is in place at their workplace. They will have to develop that plan according to the conditions which are prevailing in that area or in their own business. But the onus will be, of course, on employers, and I think it is the minimum which a government should do to direct employers.

Mr Carl DeFaria (Mississauga East): I would like to just ask you a couple of questions. The Bloor Information and Legal Services covers a certain portion in the west end. Do you know what the percentage, for example, of the population that you serve is of Portuguese background?

Mr Zirvi: I don't have exact figures, but Portuguese is of course one of the major sections of that community: Portuguese, Spanish, and of course Punjabis and other communities together.

Mr DeFaria: How many lawyers do you have?

Mr Zirvi: Two lawyers, in fact, and two sort of volunteer lawyers who work with our clinic, and some other law workers are also working there.

Mr DeFaria: Are either of the lawyers of Portuguese background?

Mr Zirvi: No, but we have a worker who deals with Portuguese clients there.

Mr DeFaria: But you don't have lawyers of Portuguese background on staff?

Mr Zirvi: No. In fact I doubt if each community can have a lawyer in a community centre like that, because we are a very small community centre. But it doesn't mean that we do not attempt to draw lawyers as such and workers out there in place.

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Mr DeFaria: You agree, though, that the Portuguese—

Mr Zirvi: Portuguese lawyers, you know, if there is a vacancy and a Portuguese lawyer applies for it, I think he can get the place if he qualifies for that. No doubt.

Ms Anna Pratt: If I may, I'm not sure what the point of your question is, but certainly if there are—

Mr DeFaria: That's the largest community—

Ms Pratt: I realize that. Expertise in the law is certainly one thing, and familiarity with the Portuguese community and the Portuguese language is another. Now, we offer services in Portuguese for the Portuguese constituents. They will be working through somebody whose first language is not Portuguese; however, that person has the expertise in the law that is necessary in order to provide the service to the Portuguese constituents.

Mrs Elinor Caplan (Oriole): What I've heard you say is that you hire on the basis of merit, but you look for people who can serve your community. Also, if the government were to provide additional funding for your clinic you could expand your staff to have more help in the community. Is that correct?

Mr Zirvi: We'd love to because we are under great pressure these days about our clients. The number of

clients are continuously increasing and we will be very grateful if the government considers increasing our funding and we are able to have different community lawyers.

Mrs Caplan: I wouldn't suggest you hold your breath waiting for that to happen. The question I did want to ask you was if you could give us some examples of the kind of systemic barriers that some of your clients have faced that only legislation could address.

Mr Zirvi: For example, we can see the effect of the atmosphere in the advertisements which are appearing in the newspapers. I happened to go through some of the advertisements five or six months back when this act was there. In every advertisement it was especially mentioned that aboriginals and disabled are welcome to apply for this post. Now that's absolutely absent in all ads appearing in the papers. That's one thing.

Second is Canadian experience, which is a very big kind of barrier. Even if the person is qualified and has the experience, they were rejected with the plea that, "You don't have Canadian experience" and all that.

There are other kinds of things, very subtle. It's not that those are very sort of blatant or open, but the things are there, as we all know and experience.

The Chair: Thank you very much.

Mrs Caplan: One last question?

The Chair: Your time is up, Mrs Caplan.

I appreciate your coming to be part of our process and your presentation.

Mr Zirvi: Thank you for being patient with us.
ABUL HASAN COMMUNITY RESOURCE CENTRE

The Chair: The next presenters are from the Abul Hasan Community Resource Centre: Tarek Fatah, Salim Ahmad and Rashid Hasan. Good evening, gentlemen. You have 15 minutes to use as you see fit. The questions, should you have time for them, will begin with the government.

Mr Tarek Fatah: Good evening, ladies and gentlemen. I'd just like to introduce the centre first. The Abul Hasan Community Resource Centre is a non-profit charitable organization that has been providing counselling services in the areas of employment and immigrant settlement in the GTA since 1992. It is totally funded by private donations and does not receive any government support.

We strongly believe in the principles of community-based self-help in assisting segments of society that are less fortunate and face discrimination in employment and business. Our efforts to help the community through private and voluntary services should not be construed as any endorsement of policies that aim to dismantle government services and hand them to the private sector. In fact the Abul Hasan centre aims to complement what we expect the public sector should be doing in the first place.

In short, we are the front line when it comes to facing the effects of unemployment as a result of systemic discrimination.

As a community-based organization, we read the text of Bill 8 and were deeply disturbed by the title. It says it

is "An Act to repeal job quotas and to restore merit-based employment practices in Ontario." It is our belief that the employment equity law being repealed by Bill 8 was not about quotas. However, the present government believes it is so and there is very little we can do about their ideological point of view. We believe that the real quotas that do exist come in the professions of medicine, accounting and engineering. We find the inability of this government to remove quotas from these professions a contradiction in its policies, to say the least.

But our real concern is with the latter part of the title of Bill 8, which refers to the restoration of the merit-based principle. "To restore" means that such a system existed. When and where, may I ask, did this merit-based principle exist?

Was it concern for merit when employment agencies were asked by their clients to short-list only white persons?

Is it a result of merit that 99.3% of all top executives in Canada are white males and only 0.7% of them women?

When over 20 members of a police chief's family is working for the same police force, does merit play any part?

Does the merit principle cause most front-line fast-food operators to be coloured and most top positions in that industry to be white and male?

And is it the merit formula that causes an overwhelming number of taxi drivers to be of Asian or African descent?

Ladies and gentlemen, we feel there can be one of two explanations as to why the government has chosen to call this bill the restoration of the merit principles.

- (1) Either the government sincerely believes that prior to the enactment of the employment equity law all hiring was based on merit; or
- (2) The government has deliberately distorted the truth about hiring practices to suit its ideological position.

Both explanations are scary. In the first instance, it shows how far the government is from the facts, and if the second were true, visible minorities are in real trouble. This makes our work as a community service organization very difficult. As a direct result of Bill 8, we feel even more doors to employment and promotion of visible minorities will be closed.

To the government members, I would like to urge them to see and feel the pain that their action will cause to thousands of households who saw a ray of hope for their children in the federal and provincial employment equity laws. By repealing the provincial law, you are further consolidating the myth that visible minorities are incompetent and do not possess this so-called merit.

It is not a coincidence that a high proportion of professions that do not guarantee a fixed income, like real estate agents, life insurance salespersons or even retail operators, are overrepresented by visible minorities.

Let me assure you, ladies and gentlemen, there is no genetic trait that forces visible minorities to choose these risky and low-paying self-employment positions. It is the

inability of the unregulated free market to provide decent jobs that pushes such a high proportion of immigrants into low-paying self-employment with high risks.

We have heard repeatedly that language skills are the real reason for higher unemployment among the visible minority communities. Is it not strange that the black community that only speaks English has one of the highest rates of unemployment? Surely that takes language out of the question, unless what is really at issue is the right accent.

There are other explanations for the high levels of unemployment in the visible minority communities, 15% among blacks and 16% among South Asians. Another popular explanation is that we are going through a recession.

Let me give you a true story of the experience of one South Asian immigrant in the booming economy of 1988, when no one was talking about the debt, being too busy, I guess, flipping real estate and speculating in futures.

He was an advertising executive having handled accounts such as IBM, Daimler-Benz, White Consolidated and Massey-Ferguson in the Middle East. He had a background in TV production and filmmaking, having covered the 1976 Montreal Olympics. Advertising was considered a profession in high demand by Immigration Canada in the 1980s and worldwide there was a boom in the revenues of advertising agencies.

This person found to his surprise that jobs in the advertising industry were never advertised in the mainstream press and were almost exclusively based on referrals. After applying to every advertising agency in the GTA for an entry-level position, he could not get a single interview. This at a time when the economy was booming. This immigrant ultimately had to buy himself a job by acquiring a franchise, which is another story.

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Another myth about high unemployment among visible minorities is that they do not have the proper educational qualifications or their overseas credentials are not equivalent to Canadian standards.

Let me expose this myth as well. In 1993, I met a security guard who asked me to help him get a better job. On inquiring about his education, I was startled to find out that he had a PhD from the University of Toronto. Dr Aminur Rahim had struggled to find a better source of living but failed to find a decent job. I have been told he has left Canada and has found employment in Nigeria because of his PhD from Canada.

So, ladies and gentlemen, no matter how you look at it, the scales are weighed against visible minorities and it is not merit that is the issue.

At the Abul Hasan Community Resource Centre, we receive hundreds of stories of unemployed or underemployed people who are fast losing faith in themselves and their dignity.

Only last week I received a résumé of this immigrant from Bangladesh who had a degree in chemical engineering from a university in Great Britain, with training in Austria, Singapore and Indonesia. This gentleman's expertise in water management and purification is being wasted because the system is structured in such a way he will never find out the right door to knock on. Merit, ladies and gentlemen, is hardly the key factor the private sector is looking for in its employment practices.

The private sector, run by what the Financial Post describes as a boys' club, is not looking for merit. Otherwise, why wouldn't most jobs get advertised? We feel the boys' club is looking for the "right fit" and the code word for this fit is "merit." Unfortunately, people whose names or looks fall outside the right fit are often the ones serving hamburgers or driving cabs in Ontario.

In conclusion, I urge this government and the members here not to abandon fairness in employment and the most underprivileged sections of Ontario by repealing the employment equity law. A short-sighted move now will hurt a lot of people who do not have the means or the capability to put across their point of view or to fight for it.

The Chair: Thank you very much. We have about two minutes each for questions, starting with Mr Young.

Mr Young: The first thing I'd like to mention is, I do know a company in Toronto that's looking for 100 chemists right now, so if you'd like to talk to me after or give me your card or something, we'll follow it up for that gentleman.

Mr Fatah: I will reply to that. Would you please ask that company to advertise it?

Mr Young: I imagine they are. I don't know if they are. I invited them out to a job fair in my riding and they came and they were advertising in the high school. They're looking for chemists, so we could talk about that.

Mr Fatah: Thank you very much.

Mr Young: I would certainly agree with you that there's discrimination in our society; there's no question about it. Where we disagree is on the quotas, on the numbers. I want to tell you that our equal opportunity plan will include support for access to trades and professions. It's going to be one of the key pillars of that, so I appreciate your feedback on that also.

I have a real problem with numbers because numbers don't tell the whole story and I see your numbers here. It takes a long time to become a top executive of a company in Canada. We do have one, I can think of one, the lady who is president of General Motors of Canada, and there are a lot of medium-sized companies and small companies that have female presidents. If you look at the trends, that's happening more often all the time.

With the 20 members of the police chief's family working, is it not possible, and this is what I want to ask you, that those boys or girls in that family admired their father so much that they went into school and studied and became experts in that area and they actually qualified for those jobs?

Is it also not possible that many, many of the minorities can't get positions—and I know there are many who are well educated—because they don't have the training and because they don't necessarily have the education that's needed?

The Chair: Mr Young, if you want to have time for an answer, you'd better wrap up the question.

Mr Young: Sorry. The bottom line is, it's not just discrimination, there are other things. Don't you agree that there are other things that prevent visible minorities from getting jobs, or women?

Mr Fatah: I would not agree with that. One basic thing: I know how police cadets get jobs and it's got nothing to do with merit. It's inside referrals. Cadets get in and these jobs that are advertised, if you go into the police force and look at the atmosphere in which this recruitment is done, it is by itself a detriment for someone to go there.

Firefighters and police forces, no matter how tough the job seems, they're secure, they're 9 to 5, they're unionized and they are protected, well paid. This is where rocket science is not involved. This is where PhDs are not involved. This is where you start at grade 12. If these simple professions are blocked out, what I'm saying is—and I'll give you an example of the TTC drivers—

The Chair: I am going to have to go on to the next question, unfortunately.

Mrs Caplan: I want to thank you. I think you've documented very well the issues of systemic discrimination. This piece of legislation has one section in it that actually refers directly to quotas, and that is the power of the commission to impose quotas if the employer has not fulfilled the obligations of the act in a reasonable period of time.

If you were wanting to remove quotas from the act and, as the name implies, restore a non-quota system, do you think that could be accomplished if you just eliminated that one section and took the power to impose quotas and left everything else? Would that satisfy the desire of the government to remove the notion of quotas?

Mr Fatah: I don't think so, but I'm really answering this more from a philosophical point of view. The very nature of the title is misleading. Everything else that follows, all the good nature that might be there—if you're starting with a falsehood, how could we?

Mrs Caplan: I guess the point that I'm making is since the title says that their intent is to eliminate quotas and it's easily done by the repeal of one section, wouldn't that be better than a repeal of the whole legislation?

Mr Fatah: It could be. It could be debated that this could be a possibility.

Mr Marchese: Just to correct Ms Caplan—and I was just checking it out because I was Chair of the justice committee while we did these hearings—I never read or heard that the commission would have the power to impose quotas. It would have the power possibly to impose a plan, but not quotas. If Ms Caplan thinks that I am wrong, you should ask the ministry person who is here to correct us both.

But we need to be very careful about what we say, because we fall into the same trap the Conservatives put us in, and that's where people like Mr Young say they are against quotas and they continue to say that. Perhaps they have a strange definition of quotas that we don't quite understand, but this bill is not about quotas.

If they wanted to deal with quotas, they could do what one constitutional lawyer came to say this morning, and that is if you want to say in the bill that there shall be no quotas, you could do that. We could agree with that. But I'm not quite sure that's what they would want. In either case, we believe we need a bill like Bill 79 to deal with systemic discrimination and they obviously don't. They have an equal opportunity plan that hasn't worked for 30 years and that will bring us back to the old age, discriminatory practices that we haven't been able to solve. That's their plan.

Mr Fatah: I would agree that—I've read Bill 79. I did not see any mention of quotas over there. I've extensively read the regulations. It was not the total answer to all the world's problems of employment, but I certainly think that what the Financial Post, which is no left-wing journal, said about the situation of employment in this province or this country could be rectified if Bill 79 had been there, and if the intent was to repeal quotas, this lawyer would be in a better position to do it. So just add that over there.

But we are facing—it's a human issue for us. Please walk in our shoes for a day. Please travel the TTC and see what is happening out there.

The Chair: Thank you very much for your presentation. We appreciate your attendance here tonight and being part of our system.

Mrs Caplan: On a point of order, Mr Chair: Mr Marchese—I want to be very careful in my choice of words—when he acknowledged that this legislation imposes a plan, that is the definition that most have accepted as quota. The imposition of a plan with numbers in it is what we mean as a quota.

Mr Marchese: But that's not a quota.

The Chair: I don't think that's a point of order.

ACCESS ACTION COUNCIL

The Chair: Our next presenters are from the Access Action Council of Metro Toronto, Dr Ibrahim Conteh, and Hamid Rezvani. Good evening, gentlemen. You have 15 minutes. If you allow some time for questions at the end, we will be starting with the Liberals. Excuse me, just so that the lady from Hansard, Pat, knows who's doing the talking, could you introduce yourselves, please.

Mr Hamid Rezvani: My name is Hamid Rezvani. I have to apologize on behalf of Dr Conteh. He couldn't come here tonight. Instead of him, Mr Jared Purdy is here, who is another member of the board of directors, Access Action Council. If I may start, I will read the very handsomely prepared memo and then I will leave most of the issues which are going to be addressed here—very familiar—we prefer to have most of the time for the questions and answers.

On behalf of Access Action Council of Metropolitan Toronto, we thank this committee for giving us the opportunity to express our views regarding Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario.

Our agency is an independent, community-based organization dedicated to advocating for fair and equitable access to human services for members of cultural and racial groups in greater Metropolitan Toronto. Access

Action Council provides forums and carries out public education activities to influence change in government institutions and the human service delivery system. Access Action Council has 80 members. Its work is carried out through a board of 14 directors.

We are disappointed that the Ontario government has introduced Bill 8 to repeal the Employment Equity Act, Bill 79. We believe that the Employment Equity Act provided concrete and legislated solutions to some of the most important systemic inequities in Ontario. We also felt that within a relatively short period of time Bill 79 had symbolically reinforced major equity initiatives in the province, and for the first time members of the designated groups felt that they were not only recognized in the workplace but also given an opportunity to address the impact of the inequities.

Specifically, the proposed Bill 8 will negatively impact the following areas:

It sends the wrong message to all the designated groups of women, racial minorities, aboriginal people and people with disabilities, that this government is opposed to equity.

It impedes the voluntary efforts of organizations and employers who want to use the data collected from the employment equity planning started under the Employment Equity Act, Bill 79.

It takes away the onus of responsibility from the employers to remove barriers from the workplace through long-term planning and instead relies on the overburdened and ineffective institution of the Human Rights Commission, knowing that the Human Rights Commission has not gone beyond acting on personal discrimination and not systemic discrimination.

Although there is not a great deal of evidence to show that members of the designated groups have actually taken any positions without merit or qualifications, they would nevertheless feel vulnerable and subject to discrimination in the workplace without the legislated obligation.

The repeal of the Employment Equity Act would make public education efforts to do with equity more difficult due to the negative and anti-equity climate created as a result of this repeal and the negative context.

In conclusion, we strongly recommend against the repeal of the Employment Equity Act, Bill 79, and stress that the Ontario government build on the positive results and encourage harmony at the workplace and not polarize it.

Mrs Caplan: You've heard the questions that I've asked the other group that made representation before us, both about systemic barriers and also alternatives to the absolute repeal of the legislation. Did you want to make any comment on that so we could be looking at alternatives before this committee?

Mr Rezvani: I would rather that Mr Jared Purdy respond to this.

Mr Jared Purdy: I'd like you to repeat the question again, please.

Mrs Caplan: I was asking if you wanted to identify any specific systemic barriers that members of your

organization or community have experienced and also, as opposed to a repeal of the legislation, if you've thought of an alternative, which might be just an amendment?

Mr Purdy: I think I'll deal with the first part of the question. You've got two questions; I'll deal with question number 1 first. Access Action Council is composed of a diversity of groups, so it's really difficult to speak of it in terms of any one particular community. With reference to citing specific examples of systemic discrimination in different workplaces, Access Action Council has been involved with various community groups and agencies over a number of years since its inception through the Social Planning Council of Metropolitan Toronto.

I'm not sure if I'm at liberty to speak about specific incidents as they relate to a particular agency, and certainly not to any other individuals, particularly where names are concerned, simply because of the nature of disclosing human rights violations.

Mrs Caplan: I was asking for examples, not specific names and cases. Of course, we want to respect confidentiality, but I think it's important for the committee to hear the kinds of experiences that members from your diverse organization have had and why you support this legislation and the need for it.

Mr Purdy: A lot of the work that Access Action Council has been involved in in the recent past has been through education, as well as through health care, as well as through a number of service agencies that deal primarily with youth—as of late there was also some work with seniors—relating to access problems; in other words, the problems that various members of diverse communities were having with accessing those services because there were barriers in place, whether the barriers were intentional or unintentional. That's often an issue that people like to raise, the intentional versus unintentional nature of problems. To the person who's on the receiving end of that practice, whether it's intentional or unintentional doesn't matter at all.

Mr Marchese: Mr Purdy, there is no doubt they will repeal Bill 79—we don't doubt that for a moment—in its entirety. They might make one minor change based on information, but other than that, they are likely to repeal everything as we know it.

They're proposing several things. First, they say, "We're against discrimination," so that makes them all feel great. Secondly, they say, "Zero tolerance with respect to discrimination," so that makes them sound good. Third, "We will work with employers to make them carry out some plans so that they deal with this." I'm not sure how they will do that with all these thousands of employers across the land, but they're going to work with them voluntarily. Finally, "We have the Human Rights Commission and Human Rights Code, which will take care of discrimination." Does that give you comfort?

Mr Purdy: I would find more comfort, and I think Access Action Council and its member agencies would find a considerably higher degree of comfort, if there were a lot more specifics raised with respect to how these things are going to be done in a spirit that is going to

bring results and in a spirit that is going to guarantee or suggest that systemic issues will be addressed, as opposed to the individual nature with which the Human Rights Commission tends to deal with things, in a very incremental type of fashion.

Mr Marchese: Same thing to tell you.

Mr Clement: I was interested in your remarks about the anti-equity climate and the negative context. We have had some deputations over the past few days where people have said that in fact employment equity programs can create a negative climate for visible minorities or other designated groups, because people feel that they got a job not because of their intrinsic merit but because of some quota program. How would you respond to that criticism of employment equity plans?

Mr Purdy: I find it very interesting when we use expressions that have become quite popular as of late, such as this thing we call "reverse discrimination," or when we talk about things such as how equity, as you suggested it, has a negative impact on members of those designated groups. I think what we're talking about there are very specific and singular examples. We're not talking about massive generalities and we're not talking about a broader systemic problem that employment equity created by trying to address past inequities. We're talking about things that come up and problems that come up in the course of action and that are often taken out of context.

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This issue of reverse discrimination is tied very closely to what you're talking about. Reverse discrimination, being the label that it is, is making reference to white people who have suffered as a result, a consequence, of employment equity. I would really like to see concrete numbers in terms of how many white people suffered as a consequence of employment equity. I've never seen any numbers and I've never even heard mention of them. I've only heard of this thing called reverse discrimination.

Mr Young: Our responsibility as government is to try and protect equal opportunity for all people.

Mr Purdy: Of course.

Mr Young: We have a concern because this legislation only addresses four groups. I have a concern about other groups that have been discriminated against historically that the legislation does not address and probably could never address: their discrimination. I wanted to get your comment on that.

I also wanted to ask you, do you think it's fair when an employer like the government of Ontario or the Ontario College of Art publishes an ad in the paper that indicates, either covertly or overtly, that they will not be hiring white males?

Mr Purdy: Okay, you've asked me two questions. The first one was in reference to groups that have historically or traditionally been discriminated against.

Mr Young: It could be Polish people or Jews or homosexuals or whatever.

Mr Purdy: Absolutely. I think that employment equity speaks to those issues. It's not simply making a

statement on the basis of race alone. In fact, more often than not it was making a statement on broader ethnoracial issues, of which ethnicity is one.

Mr Young: But what does this bill do about it?

The Chair: Mr Young, you've used up your time. Unfortunately we're on a tight time constraint, so we have to stick within the time. We appreciate your coming to present to us.

JANAKI BALAKRISHNAN

The Chair: The next presenter is Janaki Balakrishnan. Good evening and welcome. You have 15 minutes to use as you see fit. If you have time for questions they'll begin with Mr Marchese.

Ms Janaki Balakrishnan: Thank you very much for the time that you have offered to me, Chair of the committee and ladies and gentlemen.

My name is Janaki Balakrishnan. I am an engineer by profession and a politician by beliefs, faith and conviction. Two years ago I was in front of the standing committee that required consultation on Bill 79, the Employment Equity Act. It is sad that I am here today to make a submission on an act to repeal the same. I do not intend to make a long submission and I do not believe that it is required. My discussions are based on only certain items, but not in detail, about the bill.

Destruction takes less time and requires less effort. Development of the Employment Equity Act took a number of years and a number of Ontarians' effort. Here we have a bill on a sheet of paper to repeal that, with no proof that this government has a better alternative to these acts that are going to be repealed.

Proven failure of Premier Harris's merit system within his own caucus: I did not say this. Mr Harris's colleagues said that and the news media publicized it. Here are the Toronto Star news clippings of his colleagues' complaints on appointments by Mr Harris within his own caucus. Can Ontarians rely on Mr Harris's government that it would come up with a better alternative? Will equal opportunity and merit be based on golf skills equally good as Mr Harris's, similar to old-boys' network?

Ontario needs an act to serve many public interest groups that make up Ontarians. Reviewing the list of members and groups who have volunteered to make submissions, these are not new to me. They were the same members and groups who actively participated in and contributed to achieving the Employment Equity Act and who represent the whole of Ontarians collectively. Is this repeal act designed to serve only one special-interest group which formed the present government? That is why I could see a motion here from the senior member of Harris's team, "We won this by ourselves and we owe nothing to anybody and are beholden to nobody."

Taxpayers deserve production, not destruction. The taxpayers contributed a lot in many developments in the last five years. I strongly believe they deserve some production out of the developments, instead of continued destruction by the present government.

I conclude that Bill 8 is introduced against the will of Ontarians. Therefore, I strongly recommend to the government of Ontario to revoke Bill 8.

Finally, I thank the standing committee for the time that you have provided and for having listened to my concerns.

Mr Marchese: Ms Balakrishnan, we thank you for the deputation. We saw you in the previous deputations with Bill 79. I want to ask you a similar kind of question that I asked the others.

I believe many of the members on the other side are sincere when they say they want to rid themselves of discrimination and that they want fairness for all. I suspect they are sincere when they say that. Their plan is the following: zero tolerance, no discrimination, fairness for all, and we're going to work voluntarily with the private sector and the civil service to make sure there is no discrimination or there are no discriminatory practices in the workplace. Where that doesn't work, presumably there's the Human Rights Code and Human Rights Commission. We've had the Human Rights Code for many years, 30 years, and before that under a different name.

I don't believe it's worked. It doesn't deal with systemic discrimination. Where it deals with individual cases it's often long, and it certainly doesn't deal with cases that we never hear about, because most humans I know don't even know the Human Rights Commission exists, and if they do know, they don't know how to even process a claim.

That's their solution. Does it give you comfort in terms of how they're going to deal with discrimination?

Ms Balakrishnan: I do not have to say any more, because I have clearly presented in my submission that having delays is not going to serve the Ontarians any longer. We ourselves have spent a lot of time in consultation on Bill 79. That clearly stated the benefits of the act and how it is going to remove the barriers and how it's going to promote employment equity in a regulated way. Whatever the present government says—and it's clearly stated by its own members—voluntary employment is not going to work. I have already worked in the workforce. I have experienced it myself, personally, and it's not going to work unless it is regulated properly.

Ms Bassett: First of all, thank you for your submission. I'd like to say that I am, and certainly our government is, for equal opportunity in the workplace for people of all backgrounds, races and religions. Just because we're going about it in a different way than you would want, by repealing Bill 8, is not to say that we don't have the same goal.

Now, that said, I beg to differ with you when you say that Bill 8 was introduced against the will of Ontarians. Mike Harris outlined very clearly before the election exactly the direction we were going to go. Everybody knew that this was going to happen, and we won the election. Now we have a mandate to do what the people elected us to do. I wonder if you feel we should disregard what the electorate said they wanted us to do or whether we should go ahead and maybe make amendments or whatever. I'd just like your views on that.

Ms Balakrishnan: I have been a politician too in the last election. Mike Harris did not make only this promise, but he had made several others; I do not know whether people have captured the interior, the inner side of it.

There were many other promises that he made, that he was going to cut tax and other things, so the votes have not been received only for employment equity.

The numbers do not count only for repealing employment equity, and the Employment Equity Act is already there. If the present government wants to make some modifications, they can work within it rather than repealing it completely and introducing another thing which considerably spends taxpayers' money. That is one of the promises Mr Harris made when he was contesting the election.

Mr Stewart: I was just wondering: In your opinion, how do we stop racism and discrimination that some of the minority groups are practising themselves? I can mention a group; we're hearing about the aboriginal community. You don't see white people working on those reservations. You see disabled. They're all among themselves. You go out to the airport: Security out at the airport is all by basically one group. How do we solve the problem that the minority groups are practising within their own little organizations?

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Ms Balakrishnan: By introducing regulated employment equity, automatically you are going to introduce minority groups within the white-dominated groups, as well as a few white members within the minority groups, so automatically they are going to accept the reality and work within the system.

Mr Stewart: We can't have a few; we have to be equal if we're going to practise it on both sides, and that's the unfortunate part of it, that we're only hearing from certain minority groups. Yet, when we look around, the minority groups that are coming and making presentations to us are not practising it within their own communities.

Ms Balakrishnan: You are saying that you want to be more—

Mr Stewart: No, I want equity for everybody.

Ms Balakrishnan: So "equal" means more than representation in that particular group.

Mr Stewart: No. Equal, ma'am.

The Chair: Mr Stewart, would you let the lady answer the question, please. Are you finished? I was just asking him to quit interrupting you and let you answer the question.

Ms Balakrishnan: Okay, I did not know.

Mr Stewart: I will, Mr Chairman.

The Chair: If you've finished, the time is up. Are you finished?

Ms Balakrishnan: Well, if you want, I can answer that question. What Bill 79 promotes is representation percentagewise; it's not by quota. What it says is, in a geographical area, if the percentage of a particular community is leading, then there are more opportunities for them. Likewise, if it is a white-dominated one, then you will have more white members in that area.

Mrs Caplan: I certainly hear your frustration. Actually, I'm quite upset myself to hear some of the questions that are being asked, because I think it misconstrues the notion of equal opportunity. We know there are systemic

barriers that people face. Women face them as well as persons who are new to Canada and visible minorities who were born here. That's the reality.

The promise that I heard during the election campaign was that they would repeal quotas, and the only section of this legislation—I said this during the election—that imposes what could be called a quota is the section that allows the commission to impose a plan on an employer who refuses to develop his own plan. I said during the election that I think the reason for the backlash that is out there is because of that one clause, and if that clause were removed, then the Harris government would achieve its goal of removing the imposition of what could be called a quota.

Do you believe that just removing that one clause would allow them to save face and meet their election commitment without having to scrap the whole piece of legislation? They do have a mandate to remove the quotas, there's no question.

Ms Balakrishnan: As far as I am concerned, in Bill 79 there are a number of groups and members they have put in there. They have thoroughly analysed and made research on that one, including that clause. It's required in order to regulate employment equity. Without that, I don't think there will be a reasonable representation of every community that has been historically discriminated against.

Mrs Caplan: I understand your point, and that's a fair comment. You're an advocate for the bill as it exists and you were here supporting it when it was before a committee, and your party affiliation is well known. But the point you raised here at committee was disputed by Mrs Bassett, who said: "We ran on an election campaign to eliminate quotas. We have a mandate to do that." And they do, but my contention is that they don't have to repeal the whole bill in order to achieve that objective. That's the only point I was making.

The Chair: Thank you very much for visiting with us tonight and being involved in the process. We appreciate it

TORONTO COALITION AGAINST RACISM

The Chair: The next presenter is on behalf of the Toronto Coalition Against Racism, and it's Maurice Adongo. Welcome, sir. You have 15 minutes to use as you see fit. Time for questions will start at the end, with the government.

Mr Maurice Adongo: Thank you. I'm going to go pretty quickly, so that we can get the time done. I'm from the Toronto Coalition Against Racism. I'll read the statement and then make some comments, and I can take the questions.

First of all, the Toronto Coalition Against Racism was formed in June 1993, in response to violent racist attacks by neo-Nazi groups which, as we all know, are very well trained in this city. In just two weeks—that is, in June 1993—one person was killed and another suffered permanent injuries. He is still in a wheelchair as we speak here tonight.

It was under these grim circumstances that a group of us came together to mobilize the community to fight back. On June 28, 1993, more than 3,000 people converged on the streets of Toronto to denounce racism and declare a commitment to stop racist violence. Since then TCAR has grown significantly. Today, TCAR has a wide membership of more than 60 organizations, comprised mainly of community groups, anti-racist organizations, women's groups, lesbian and gay groups, labour unions and many more. Obviously, we have not attracted much membership from Bay Street.

We are here today to talk about Bill 8, which has been introduced in the Legislature by the Tory government. We're aware that employment equity initiatives and legislation in Ontario have been portrayed as part of an attempt to "pander to special-interest groups." We have been told that employment equity legislation amounts to "reverse discrimination" and leads to "lowering of standards." We are going to address some of these myths as we go along, but first we want to focus on Bill 8.

We have studied Bill 8 and have identified some very serious issues of concern to our members. Specifically, we are talking about racism and discrimination in the workplace. We are disturbed by the fact that the Tory government in Ontario, through this bill, continues to perpetuate baseless myths and to spread false and misleading information which is clearly intended to distort the reality about the need for equity in the workplace and the economic development of this province.

The Toronto Coalition Against Racism is concerned about the misrepresentations and some frightening lies—and I'm afraid we had to call them lies, because we really looked for a better word and we couldn't come up with anything—that the government has been spreading through this bill. We are asking this committee to address this kind of racism, bigotry and political opportunism that is being promoted through this bill.

As an organization, we believe the role of the government is to bring the people together to deal with the problems and find solutions. The government has a responsibility to serve all the people and strive to create social stability that can provide a climate suitable for economic growth and development. This government has to make a choice between working with people to solve problems or continue with its confrontational approach. Either way, we are prepared to fulfil our obligations as citizens and as residents of this province. In other words, we're saying it's not our choice. You make the choice; we'll fulfil our obligations.

Coming back to Bill 8, we need some urgent clarifications—and I want to stress "urgent"—because we are really concerned. We don't want to go around in circles. We really don't have that kind of intention.

2010

The first issue we want to raise is about quotas. I've been sitting here, almost feeling like jumping through my skin when I hear people talk about quotas. We have analysed employment equity and I have it here with me. Nowhere in the act did we find any requirement on employers to fill any set numbers. There are no fixed ratios or percentages imposed on employers by the employment law. We are aware that the implementation of employment equity requires individual eligible firms—eligible, because some companies or some corporations

don't even qualify—to do their own research and set their own numerical targets based on their own conditions. The question we ask ourselves is: Can these numerical targets be misinterpreted as quotas? We need a straight and direct answer on this matter because we believe it is at the root of Bill 8.

The targets are determined by the firms themselves, presumably taking into consideration the job market, the skills they require and all other circumstances necessary to implement employment equity. If they are all speaking the same language—and most Tory MPPs, being Anglo-Saxons, should not have any problems with the language—there is no way we can refer to individual employer targets required as quotas. I don't see any quotas; I don't think there are any quotas. Unless the Tories have some other information not available to the public, which I would want to have myself, we can only come to the conclusion that Bill 8 is actually based on a lie. This to us is a very serious matter.

I've been looking to Parliament and I see people clowning around. I don't think people can afford to clown around when you're talking about dishonesty and credibility of a government. I think we need direct and very straight answers, not a question of semantics. We're talking about: Do we have quotas or don't we have quotas? I need that answer.

The other stuff has been about the so-called meritbased. If you have read this thing, it talks about meritbased. Bill 8, right on the same heading, talks about restoring merit-based employment practices. Again, we went very carefully through the legislation and the regulations; nowhere did we find any order or instruction requiring employers to hire people who are not qualified.

In actual fact, those who are not qualified have no consideration whatsoever under the employment equity legislation as it exists today. Again we put a simple, direct question to this committee, and through you to the people of this province: Where in the employment equity legislation is the requirement to hire people because they are black, natives, women or because they have disabilities, regardless of whether they have qualifications or not?

This is a very important issue for us. The government is misleading the public to believe that black people, women, those with disabilities—that is, the people in the designated groups—are being employed even though they have no qualifications when the white males who really have the qualifications cannot get jobs. This is very dangerous propaganda. It gives the racists and white supremacy groups like the Heritage Front the moral backing and ammunition to carry on their racist acts of terror against people of colour, whom they claim are taking away jobs.

We would want to believe that this is not the intention of the government, but we must caution that it will be a sad day in the province of Ontario when one cannot distinguish between the propaganda of an elected government and that of hate groups like the Heritage Front. We are holding our breath for proof that this is not the case. That proof must come from the facts; it will not come from routinely repeating prepared texts or merely parrot-

ing the party line. We need facts, not rhetoric, on this matter.

Let us all be clear on a few things—and I heard people talk about the mandate. When a government lies openly to the public and engages in spreading false and misleading information which helps to foster hostility and resentment against a particular group of people, in this case people of colour, we call it racism. Some of you may call it Common Sense. It is, pure and simple, ugly racism, and I'm sure people will bear with me on this.

The other thing we want to get very clear is that this government may have a mandate to implement its policies. It sure has, but nobody has a mandate to promote and spread racism in the province of Ontario. I've looked at the blue book. I didn't see you guys ask the people, "Can we promote racism?" If you did and they say, "Go ahead," then we will have to do other stuff to resist it. But there's nowhere you asked for this. And you are doing it deliberately by misleading people, by putting stuff that doesn't make sense, by lying openly, and all the time hiding behind this Common Sense thing that everybody repeats. I think they don't even read the stuff that's already available in public.

Connected to this other stuff is the merit. This is another thing that really pisses everybody off. Now, there's the merit issue that we are supposed to restore, and I will skip some of the stuff there. The bill says that you want "to restore merit-based employment practices." In other words, there was merit-based employment before; you want to restore it. Right? So you don't accept there has been a problem. On the other hand, you say, "Oh, but we also have this equal opportunity plan." Now you have this double stuff. I don't know, but I have been told they have a lot of intelligent people in the government. They are very successful business people. I don't think they run their business in this manner. So there must be something more devious than what we are seeing.

But anyway, I'll go to page 4. First, this other document that I've referred to. There is Judge Abella's report. This report, prepared by Madam Justice Rosalie Abella for the federal Conservative Party, looked into discrimination and this is what it concluded: "There are significant problems of discrimination against women, of discrimination against visible minorities, of discrimination against people with disabilities, which discrimination was systemic and which discrimination required a positive response...."

There's a whole list of things that I've put on. There's a report, Opening Doors, which I'm sure everybody has read since this is what you are discussing. This is the employment equity consultations report, which has a lot of details. We have another study by Billingsley and Muczynski entitled No Discrimination Here? Very well documented. There is another study, Who Gets the Work? A Test of Racial Discrimination in Employment, which showed that when they had black and white people with the same qualifications, all the time they employed the white person.

These are not things from me. These are not things from the NDP. There are not things from groups that are

against the government. These are things that are objective facts and reality.

There's another documentary which I watched recently. It's called Access Denied, by Premika Ratnam, which chronicles dramatic and painful evidence of how systemic racism and other cultural barriers hinder access to trades and professions for immigrants and refugees who come here as doctors, engineers, accountants etc, but end up as security guards and cooks and all that kind of stuff, and there's all the stuff that has been there.

Now the question we have is on page 5. We want again to put a simple and direct question to this committee: Does the Tory government recognize that traditionally in Ontario there has been discrimination in hiring, in promotion against visible minorities, native Canadians, women and people with disabilities? Is there a recognition of that fact? If the answer is yes, which it must be, given the facts, then where are the merit-based employment practices that we want to restore? That's my question to you.

Are we trying to restore the discriminations of the past when the old boys' network, the word-of-mouth references and petty nepotism dominated our hiring and promotion policies and practices? So you want to restore the merit. We are saying there was no merit before. If you want to restore discrimination, please put it that way so that we can understand.

If the past was so good and the same government is coming with whatever it is they call an equal opportunity plan, then why do we want to change it?

Then I have on the same page the Ontario Human Rights Code. We have been told that discrimination is illegal. If you are being discriminated against, go to the Ontario Human Rights Commission. Why don't we ask the white males who are claiming that employment equity legislation discriminates against them? Why don't we ask them to go to the Ontario Human Rights Commission? If the Ontario Human Rights Commission is good for women, is good for black people, is good for native people, is good for 70% of the population, why is it not good enough for those white males who are being discriminated against by the employment equity legislation? That's something that baffles me completely.

Then there is the other thing that says that we have to destroy the evidence. This is the one that really shocks me. Bill 8 requests that all information collected for purposes of implementing employment equity be destroyed.

First, let's ask ourselves just one question: What kind of information could this be? And I checked through the guide and I came up with three types of information. One is a survey of the workforce; that is, who is in the workforce, what groups and stuff. The other one is a review of employment policies and identification of barriers, and the third was employment equity. That is the information.

2020

Now the question: Why in the name of the devil would the government want this kind of information destroyed? Is it because it will expose the lies of this government? Doesn't this same government tell us that when you force these people to destroy this information, you all say, "We have this other plan." What information are you going to use to implement it? Are we going to have the taxpayer fund more data collection? Because this includes public organizations, crown corporations. You want them to destroy everything, but, "We are coming up with this other plan." How are they going to implement it? With what information, from where?

The Chair: Excuse me. You have one minute remaining. Do you want to wrap up, please.

Mr Adongo: Actually, I've finished that now. Generally, I was just saying that there are a lot of myths—direct lies here. I accept that this government has a responsibility to go on with its mandate. I would just say one thing. We have a lot of problems in this province, and we are willing to sit here and talk. I've come here to present a willingness to discuss this problem. If the government came and said, "Look, if you have a problem with this legislation, let's talk about it, let's work it out," we would.

But I think we also have a responsibility to let the government know that if you declare war on people, if you want to fight people, believe me, we are not just coming here to beg you to sympathize. We are also coming here to tell you that we are ready to carry on with the confrontation. It is our only hope, our only chance. We are not going to lie down and tell people, "Roll on us." That has not happened in our history. Slave people fought with nothing; they didn't even have knives, they didn't have a stick. We have a lot to fight with. Believe me, the choice is yours.

The Chair: Thank you very much for your presentation. We appreciate your interest in the process.

Mr Stewart: Mr Chair, on a point of order: I would like the record to show that I have grave difficulty with being called a liar.

The Chair: I don't think that's a point of order.
ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Chair: The next presenter, on behalf of the Ontario Association of Chiefs of Police, is Jack Delcourt, the chair of the legislative committee. Good evening, and welcome to our committee.

Mr Jack Delcourt: Thank you very much, Mr Chairman. In view of the lateness of the hour, I'm sure that you and the members of the committee will be very pleased to hear that my presentation will be short.

I represent the Ontario Association of Chiefs of Police, and one of my responsibilities for the association is to chair the legislative committee. Thank you for the opportunity to appear before you.

The OACP represents over 110 municipal police services in Ontario and the Ontario Provincial Police. In addition, our membership includes Royal Canadian Mounted Police senior officers, and we extend associate membership privileges to non-police individuals who may be employed as senior managers of security departments of large corporations. Our association is dedicated to efficient and effective policing in Ontario. The wellbeing of our citizens is our primary concern, and we are committed to the philosophy of community policing.

We are proud of the fact that over the years we have maintained an open and professional relationship with a number of solicitors general. While our concerns have not always been taken into account and the decisions taken provincially are not necessarily to our liking, our members have never faltered in their sworn duty to obey their civilian overseers. In fact, all members of our association accept and strongly support the concept of civilian control of the police. The alternative is simply too horrifying.

The Ontario Association of Chiefs of Police supports Bill 8, but our comments will be limited to section 4, dealing with changes to the Police Services Act.

At the outset, we wish to state that chiefs of police do not object to the principles of employment equity. We agree that in this multicultural society, it does make sense to have an organizational makeup that represents the community being served. We agree that more women are needed as sworn members. We would also be pleased to have more representatives of aboriginal peoples and visible minorities as our employees.

All services in this province were prepared to institute positive measures to eliminate barriers within their organizations and to create outreach programs to attract qualified representatives of the target groups. In fact, for many police agencies, including my own, employment equity legislation was rather superfluous. Many of us, as professional leaders, understood the benefits of changing the makeup of our services to better reflect our communities.

We would have much preferred it if the government had understood that we do not have to be threatened before we do the right thing. Had anyone taken the time to look back in history, it would have been abundantly clear that police officers in Ontario are prepared to follow reasonable guidelines. We believe that guidelines that promote the elimination of barriers, that advocate the need for outreach programs and that recommend a goal of better community representation within the police service are quite logical and should be followed.

Unfortunately, the Police Services Act suggests that the failure to reach certain goals might result in the dismissal of the chief of police or board members. While the statute is specific as to sanctions for those who act in contravention of the law, it remains silent on what constitutes rewards for meeting goals, and rewards are mentioned in the statute.

It has been difficult for chiefs of police, all of whom are experienced professionals and well-educated senior officers, to accept a law which is extremely negative in tone and rather demeaning. Frankly, we do not feel that we earned this lack of respect.

Employment equity gave birth to a bureaucracy of rather large proportions. History tells us that bureaucracies sometimes tend to feed on the organizations they are intended to help, and that became very true in this instance. Police services in this province were saddled with the need to prepare voluminous reports at regular intervals, and their value is somewhat questionable. I would suggest to you that each report could have been condensed into a few pages, with no noticeable loss of impact to the reader. Many agencies were forced to hire

personnel for the sole purpose of looking after this bureaucratic nightmare.

We do not wish to discount the value of some of the advice that our services received over the life of employment equity. In several instances, suggestions from members of the Employment Equity Commission proved to be rather astute. It is unfortunate that this good work had to be overshadowed by the onerous reporting requirements

The police community in Ontario is pleased to support Bill 8 and we thank the Minister of Citizenship, Culture and Recreation, as well as the Solicitor General and Minister of Correctional Services, for their efforts in bringing this bill to the Legislature in short order. Please be assured of our willingness to assist this government in the preparation of guidelines intended to replace employment equity. We agree with Mr Runciman that the employment equity legislation is unfair and we thank the minister for his vote of confidence in favour of the professional police officers and civilian employees of this province.

Mr Clement: Thank you for your presentation. I want to return to something that was raised by the previous speaker and a number of deputants prior to him, and I'd like your association's opinion on this, because they did take a position on Bill 79.

Bill 79, in subsection 55(2) says: "A regulation governing the content of employment equity plans may require plans to contain numerical goals determined in a manner prescribed by the regulation. It may provide that the goals shall be determined with reference to percentages approved by the commission that, in the opinion of the commission"—not the business; the commission—"fairly reflect the representation of the designated groups in the population" and so on.

Does that, to you, sound like a quota?

Mr Delcourt: I don't think I can answer that with a yes or no. I'd rather go back to the Police Services Act. My interpretation of the Police Services Act is that it was not a quota. Rather, it said you will strive to meet the targets.

Mr Clement: But when the commission is setting the goal rather than the police force, if the commission were setting the goal, if the government were setting the goal, would you as a police force interpret that to be a quota?

Mr Delcourt: Without the Police Services Act interpretation of that particular section, yes, I agree. But this was tempered by that particular section of the Police Services Act which said, "You will strive to meet those goals, and if you do not meet those goals, you will be assessed on the efforts that have been developed to meet the goals." To me that was reasonable. My biggest problem was with the reporting requirements which were killing us and were very difficult, particularly on smaller police services in this province.

2030

Mr Jim Flaherty (Durham Centre): My question is in relation to the matter you just raised at the end of your last answer with respect to reporting requirements. I think most people in Ontario today accept that we have limited resources, including limited resources that can be attributed to police forces. In your experience, what sort of demands were placed on police forces by this legislation?

Mr Delcourt: It required, of course, that we do a little bit more outreach in the community, for some of us. Some of us were already doing that, so that was not a problem.

There was a lot of good in the legislation. I don't want to say it was bad. It was good. It forced us to look at our practices, forced us to look at what may have been a barrier which we didn't realize was a barrier, and we got a lot of help from the Employment Equity Commission in that respect.

I'm not here to say the legislation was terrible. Rather, we had a problem with the fact that it was imposed on us with very little consultation. It was imposed on us without any regard to the need for us to hire additional people to look after the paperwork, and of course there was an expense involved because, as you may know, for each application we got in we had to send a survey form to that person, it had to be completed and mailed in. There were costs involved, and it's very difficult, particularly in smaller organizations that have very limited budgets.

The Chair: Mr Marchese, your friend has left you.

Mr Marchese: Mr Chair, Mrs Caplan volunteered her time to me as she left. I thought I would tell you that in advance.

The Chair: Do you have some sort of signed document?

Mr Marchese: She whispered in my ear. Many of you noticed that.

I have about four questions, but before we get to those, I want to ask Mr Clement, the parliamentary assistant, a question. If the fact that the commission could impose numerical goals were the offensive part and we agreed to remove that, would that solve some of your problems?

Mr Clement: Some, but not all. I would say it's the position of the government that the legislation is fatally flawed, that it sets an entire infrastructure in place to achieve numerical goals and that that would not satisfy us.

Mr Marchese: All right. Thanks a lot.

You say, Mr Delcourt, that the bill was good in many ways.

Mr Delcourt: The intent of having our services composed of people who represent the makeup of the community is good.

Mr Marchese: Okay. You then proceed to say that the only difficulty—at least that I heard; there may have been other difficulties—was the significant cost with respect to the reporting of plans, that that was onerous and you needed assistance in that respect. Why wouldn't you call for financial assistance as opposed to accepting a complete repeal of this act?

Mr Delcourt: As I stated in my remarks, we really do not need a statute for us to act. The guidelines are sufficient for us to act. We are professional people, and if we receive guidelines from the Solicitor General you can be assured that they will be followed.

Mr Marchese: So Bill 79 is good as long as it is in the form of guidelines and nothing more?

Mr Delcourt: Yes.

Mr Marchese: But you do believe that discrimination exists?

Mr Delcourt: In the police sector or in the province in general?

Mr Marchese: Particularly, generally, however you want to answer.

Mr Delcourt: Of course there's discrimination.

Mr Marchese: Judge Rosalie Abella says this of voluntary mechanisms to deal with discrimination: "It's difficult to see how a voluntary approach, that is, an approach that does not include an effective enforcement component, will substantially improve employment opportunities for women, native people, disabled persons, or visible minorities. Given the seriousness and apparent intractability of employment discrimination, it is unrealistic and somewhat ingenuous to rely on there being sufficient public goodwill to fuel a voluntary program." Your comment on that?

Mr Delcourt: You're talking about perhaps the private sector. I don't know.

Mr Marchese: I'm talking any sector.

Mr Delcourt: I'm strictly limiting my comments to the police sector.

Mr Marchese: That's fine. Let's say she's talking about you and your sector.

Mr Delcourt: If she's talking about the police sector, she's wrong.

Mr Marchese: In the police sector, all of this is happening? This voluntary approach to discrimination, particularly with respect to these target groups, is being dealt with and everything's okay? We shouldn't be dealing with this?

Mr Delcourt: It's being dealt with by law right now. Employment equity is still in place. But if you're talking—

Mr Marchese: So it's working because of employment equity or in spite of?

Mr Delcourt: No, I'm saying it is working. It has to work because employment equity is there. I also said in my remarks that a lot of services that I know of had started to work on this problem. I started to work on this in 1987, way before anybody had a chance to talk about employment equity.

The Chair: Thank you very much, Mr Marchese. I'd love to believe that Mrs Caplan did in fact give you her four minutes, but I'm just not—

Mr Marchese: That means I have more time.

The Chair: Thank you very much, sir, for your presentation. We appreciate your interest in our process.

SANDRA MARTIN

The Chair: Our next presenter is Sandra Martin. Good evening. You obviously understand the rules. You have 15 minutes that you can use as you see fit. If we have time for questions, the Liberals—

Mr Marchese: Actually, she has instructed me to take her time, Mr Chair.

The Chair: Somebody will start the questions.

Ms Sandra Martin: I'd like to speak briefly. My name is Sandra Martin and I'm here because I'm a journalist and I have been studying employment equity in Ontario and Canada and abroad for the last year on an Atkinson fellowship, and the results of my research have just been published in the Toronto Star. So perhaps some of you have seen them.

I am not against equity in the workplace; I'm for it. I don't think any right-thinking person would be against it. I think the way we've gone about it has caused perhaps more problems than we needed to, and I'd like to emphasize that what I think we need to do is concentrate on systems now. We've tried numbers and we've had some unexpected results from the numbers. If you could bear with me, I'll give you a little bit of background from my perspective.

Canada, and particularly Ontario, has changed enormously in the last 45 years. We went from boom to bust. The face of urban society has gone from homogeneous to multiracial. The workplace is no longer the domain of the white male. Work and home have become inextricably mixed and the monolithic domestic market is collapsing.

Two of the biggest factors in all of this are the huge influx of women into the workforce beginning in the 1960s, and the arrival of a much more diverse group of immigrants in the 1970s and 1980s. If I could just suggest that the stuff you quoted from Rosalie Abella was from 1983, and I don't know that it's really pertinent now to talk about—

Mr Marchese: Really?

Ms Martin: I mean in terms of the number of women represented in the workplace. I think we've tried to accommodate those huge changes by enacting human rights legislation to protect people from discrimination and to work on behalf of groups, as well as individuals. We've taken a proactive stance instead of just a complaint-driven approach.

But I think that some of the things that have gone wrong are that in the name of fairness we're now actively discriminating on heritage and personal characteristics. When the 1996 census comes out, we will be asking people to self-identify in terms of race. This is one of the things we wanted to get away from with Human Rights Commission laws.

Women are being hired at a disproportionate rate to men in many places. At the University of Toronto, for example, 28% of the applicants for faculty positions were women in 1993, yet 56% of the jobs went to women.

What tends to happen with employment equity figures is that they're counted in terms of the entire workplace; they're not counted in terms of intake. So there are people who are stuck in that workplace, and many of them are aging males. Now, we have to either wait for them to retire, give them early retirement, or we can overcompensate on the intake part, and then we will just perpetuate a different kind of overbalance or set up a different kind of overbalance.

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Certainly, white, middle-class women have done very well out of employment equity. For example, in 1994,

77% of women with a university degree worked for pay or profit. When you take education out of that, it dropped to 36% for women who had not completed high school and to 17% for those who had not gone beyond grade 8.

What I'm suggesting to you is that it's age and skills and poverty and lack of education and support systems that are really discriminating against people being able to compete on their own merits in the workplace.

If you don't have safe day care for your child, then it doesn't matter if you have preferential hiring. If you don't have a way of getting to work if you're disabled, then what does a job mean? Those are the kinds of things I think we should be concentrating on.

I think also that employment equity is where all the other equities intersect in the workplace. I think the existing law puts the onus on employers to remove barriers preventing the discriminated groups from prospering, but the barriers are so loosely defined that they could represent anything that I feel, as a white woman, is standing between me and my goal, and that could be you. On one side, it promotes victimization, that "I didn't get the job because I am...." It just puts a completely different spin on everything that happens in the workplace.

One of the things that I found in my research was that demographer David Foot said that at least one half, and probably two thirds, of the representation of women and visible minorities in the workplace is due to demographics. Being there is a lot of the answer. What happens to you once you're there is a question of barriers. I think what has to happen with those barriers is that there has to be direction from the top and there has to be involvement from the bottom up so that everybody gets together and discusses barriers.

But you cannot leave people out of the workplace; they're there. That is what I think is the argument for diversity, that we're all there working, that a young man of 22 is not—you can't blame past discrimination on current people.

It happened in the past. Let's try and change it now, but let's not blame people now for things that their grandfathers did.

That's basically all I want to say, unless you want to ask questions. I can tell you the sorts of things that I think we should be doing, but basically I'm not at all happy with the language of Bill 8. I think that it's vengeful and unduly harsh and I think that it has ignored some of the good parts of Bill 79, specifically the systems review. There was not one person I talked with who thought that a systems review was not a very, very good idea.

I think if that were put in in some kind of legislated way, so that instead of filing numerical reports on your employee representation, you had to set up diversity teams or equity teams which would involve employees at all levels of the organization and that you established your goals and you wrote reports every year on how you were meeting them and what the barriers were in your particular workplace and how you were addressing them—I think those are really important points.

Another thing is that I don't think we should talk about employment equity as a goal. It's a process. It happens

all the time. We can't stop it, we can't say when we've succeeded, and I think that we have to include everybody in it and think of it as an ongoing process.

I didn't read; I just talked.

The Chair: Are you available for some questions?

Ms Martin: Sure.

The Chair: In your absence, Mrs Caplan, Mr Marchese said you had given him your time. Is that true?

Mr Marchese: When she wasn't here.

Mrs Caplan: I don't remember having that discussion with him.

The Chair: Okay. The questions begin with you and you have two minutes.

Mrs Caplan: He may have thought that I might have said that.

Mr Marchese: Just trying to be helpful.

Mrs Caplan: Just a little misunderstanding, I'm sure.

I listened very carefully to what you said. Do you think that the existing legislation—not Bill 8 but the existing act—needs to be repealed, or can it be fixed? I agree there have to be changes to it.

Ms Martin: It has to be changed and I think it has to be changed quite drastically. I don't like the tone of it. I don't like the preamble, which says that the people of Ontario recognize that they discriminate. We may do that on an individual basis and we may do it on a systemic one, but I think it's unintentional. I mean, there are some overt cases, but I think that sets the wrong tone.

Mrs Caplan: I agree that the tone's very bad.

Ms Martin: The emphasis on numbers is a big mistake. No matter how you dress them up, people think they're quotas. And I think that you cannot have four designated groups.

Mrs Caplan: What about the provision of Bill 8 that requires the destruction of all of the data that's been collected? If you're going to make progress, don't you have to have the data in order to be able to gauge the progress that you're making, even if you are not establishing targets or goals?

Ms Martin: That's an argument that one hears a lot and that's the argument behind the census, putting race on the census. The trouble with numbers is that there are many ways of counting them, and this is what I found so interesting in terms of how you look at the numbers. I think a lot of the backlash that we hear about is because of the dissonance between what we see around ourselves in the workplace and the numbers we're being fed. We're told on and on and on again about the wage gap between women and men.

When you look at that wage gap, it's big for some women, and in fact there are other women who are actually making more than men. So I think the numbers are a real problem. I would get rid of numerical goals. I would get rid of the designated groups.

Mrs Caplan: What about the data? The question I have is—

The Chair: Thank you very much, Mrs Caplan.

Mrs Caplan: Do you agree with getting rid of all the data that's been collected?

The Chair: Mr Marchese is not as kind as to give you some of his time.

Ms Martin: I didn't answer her question, though.

The Chair: I know, but she doesn't have time to ask it.

Mrs Caplan: You ask the question.

Mr Marchese: I just have so many. I read your articles with interest, actually. I even highlighted them in some places.

The Chair: He wants you to autograph them.

Mr Marchese: I missed one or two. Sorry, not autographed. You said the quote that I read about Ms Abella was 1983, meaning to suggest that's it's almost out of date because what we've done since is good and therefore—

Ms Martin: No. My understanding is that the reason that the employment equity royal commission was established in the first place was that there was the anticipation that there was going to be this huge influx of women into the marketplace, into the workplace, and how are we going to accommodate them? So they asked her to look specifically at 11 crown corporations and to work in terms of four designated groups who had historically been discriminated against.

Mr Marchese: Ms Martin, the point I make that she makes is that the voluntary approach doesn't work. That's what they're proposing, and I suspect you're saying the same thing: that guidelines are good and, if done effectively, voluntary mechanisms will work not just for these four designated groups, but for everybody. Is that what you're saying?

Ms Martin: I'm saying that two thirds of the argument is demographic and one third is some form of legislation. I think we should have some form of legislation for everybody that you cannot discriminate against people. We have a Human Rights Code and we should be strengthening it, but I think that in terms of numerical goals that is going to have preferential hiring for specific groups, it hasn't done a lot for aboriginals and disabled people, and I think the reason it hasn't done a lot for them is because you have to have the skill sets, you have to have the physical accommodation, you have to have the training. With visible immigrants, for example, if they haven't been here very long and they don't have language skills and they don't have their qualifications accredited here, there's a problem.

Mr Marchese: I understand that. Black people, however—

The Chair: Mr Marchese, Mrs Bassett-

Mr Marchese: So many questions. Perhaps you can come back under a different name? Can I work on that with you? There's still Monday.

Ms Bassett: Sandra, first of all, I enjoyed your series very much because it focused on a lot of things that we think we're saying. We do want to make sure that there is equality of opportunity for everybody in the workplace, and the government feels that strongly. We're just going about it in a different way than my colleagues across the table.

I wonder if you can come back to the four groups, because we feel there are so many groups here from various countries. Do you think we should just get rid of that totally? Is that what you're saying?

Ms Martin: We have to sell the idea of diversity as a bottom-line business issue. When you appeal to people's self-interest, I think that goes a long way. I think there certainly is a role for government in promoting diversity, but I think in terms of serving a customer base in Canada, particularly in the urban centres, if you have a diversified workplace and you have—if you're trying to work in the Chinese community and you have Chinese salespeople, of course you're going to have a better connection.

Ms Bassett: So you're saying it's good for business.

Ms Martin: It's good for business both domestically and internationally. If you're trying to penetrate a new market and you have somebody who came from that country or someone who has language skills in that area, of course it's going to be easier than just blundering in.

Ms Bassett: Do you think we've reached the stage where that's going to propel us on right now?

Ms Martin: I don't think enough businesses have bought the business case for diversity yet and I think more should.

Mr Marchese: How do we do it? What do we do, educate them?

Ms Martin: I think it's a very good question.

Mr Clement: Do you think that Ontario essentially is a racist and discriminatory society?

Mr Marchese: Do you think there's discrimination or racism?

Mr Clement: No, that's a different question.

Ms Martin: I don't think it's a racist society. I think there is discrimination. Compared to other societies, I think we would be better off than the United States. We worry a lot about discrimination and so on, but it's very interesting when we talk to our children, because they've grown up with diversity. We worry about us because it's new to us, because the population has changed so much in our lifetimes. But for kids going to public school, they don't make those kinds of distinctions.

The Chair: Thank you very much. There's a group of firefighters behind you who are anxious to come. Thank you very much for coming and sharing your thoughts with us.

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PROVINCIAL FEDERATION OF ONTARIO FIRE FIGHTERS

The Chair: The Provincial Federation of Ontario Fire Fighters, represented by Mark Fitzsimmons and Bruce Carpenter. Welcome, gentlemen. Please introduce yourselves so Hansard knows who's talking. You have 15 minutes to use as you see fit.

Mr Mark Fitzsimmons: I'm Mark Fitzsimmons and I'm here on behalf of the provincial federation of fire-fighters, that represents almost 5,000 firefighters in the province of Ontario.

I wanted to start by saying that the provincial federation of firefighters believes in a diverse workplace where

all members of society have an equal opportunity and equal access to employment. We believe that a diverse workplace, equal opportunity for all and a merit-based system are 100% compatible; they work. We do not believe that gender, race, colour or ancestry are barriers to excellence. Employment practices that are fair, jobrelated and ultimately based on merit will not discriminate. Excellence is achievable by all. For these reasons, we support Bill 8.

Having said that, though, let me say some other things. We have to stress that unions, management and governments must work together to ensure that equal opportunity is a reality. It's no good to say you have equal opportunity if it's not there in reality. Union and management must work together to review hiring and internal policies to be 100% certain that bias, whether intentional or unintentional, does not exist. By doing this, all people can be evaluated on a level playing field and merit will rule. It only makes sense to hire the best candidates for any position. In an emergency situation, how can anybody justify anything less? To have the best all-round people hired as firefighters is common sense.

I have to emphasize again that while we have a responsibility to ensure that the testing procedures are fair, job-related and based on legitimate job requirements, we must also recognize that not all people have the same level of ability. Although you may get by with the minimum, you will have a better workforce, and in our case a safer workforce, by selecting people who have superior skills. We believe that ability up and above average must be valued when making hiring decisions, especially for firefighters.

Programs that favour one group of people over another are doomed to fail and will result in division and acrimony in the workplace. We agree with this government that all the people of Ontario must have equal access to employment in this province. To be sure that equal opportunity becomes a reality, this government must review the provisions of the Ontario Human Rights Code, with special emphasis on section 14, called "Special Programs."

Although we agree with special programs that reach out to all segments of society, make sure everyone knows the jobs available for them and creates a level playing field, we believe that this section of the Human Rights Code has been abused by some employers to enact limited-access hirings, which are quotas, long before the implementation of Bill 79. Without a revision to this section of the Human Rights Code, mandatory quotas may be eliminated; however, hiring practices that can exclude non-preferred groups—and that's 35% of the population of this province—can still flourish.

It has to be inclusion, not exclusion. We have to work together in an atmosphere of mutual respect to ensure that each individual—and I stress each individual—is treated fairly and equitably. That will result in a diverse workforce, and by doing it that way we can avoid the pitfalls of quotas and preferential hirings.

I'm open for questions.

Mr Marchese: Thank you for the presentation. You say that programs that favour some groups over others

are doomed to failure. A number of people have made the observation that in some places in Ontario firefighters are completely white, and they say there's something wrong with that, that it's not promoting inclusion but exclusion, the very thing you're trying to avoid. Is there something wrong with that, do you think?

Mr Fitzsimmons: I think there's something definitely wrong with your logic. You assume that because the group isn't totally representative there's something nefarious or there's something wrong going on. I can assure you—and I'm with the Toronto Fire Fighters Association—the city of Toronto has spent, I would say, millions of dollars for outreach to try to get people to come in and be hired on to the job. The reality is that the applications aren't there.

The applications aren't there for a lot of reasons: one, women physiologically aren't as strong as men and a lower percentage of women will probably qualify for the job in any competition. That's not our fault; that's just physiologically. It doesn't mean that women can't do the job. We have women on our job and they're good firefighters.

Some new Canadians don't want a job that's associated with a uniform. They don't want it because they don't trust uniforms. We have an oriental gentleman who works out of our station on College Street, and when he came to the fire department his family was very upset because they don't see a uniformed job as an honourable profession. As you get into second-generation Canadians, those biases will disappear.

The reason you don't have a diverse workforce is (1) timing, immigration patterns, and (2) biases, but not biases of the white male, not biases of the fire departments; there are cultural biases of some people who come here. They don't see the fire department as a viable profession. As time changes, as you come to second-generation Canadians, yes, they will.

Mr Marchese: Councillor Kyle Rae said as an opinion that we make the qualifications aspect of our test for firefighters so high that by its very nature it will exclude some people. Your reaction to that?

Mr Fitzsimmons: When you're selecting firefighters, if you can prove that a set of skills will directly relate to better performance on the fire ground or an emergency scene, you're a fool if you don't take the person who has the higher skills.

Mr Stewart: We had the firefighters up this afternoon. One of my concerns is that many times in the paper when minorities or women or whatever are not hired, they tend to go back and say the standards are too high and blame it on that. My comment is that if I want to get out of a burning building, I want the best possible person, whether it's male or female, and I want those standards very high to do it. I assume that is the thinking of the fire professionals.

Mr Fitzsimmons: I agree with you, but what I would like to stress is that we recognize that the best firefighter isn't necessarily the strongest person, the smartest person, or the person who interviews the best. It's a combination of skills. The physical part is very important, but to have

somebody who's real strong and real dumb doesn't do you a lot of good when you're in a life-and-death situation.

What you want is somebody who's strong, for sure, you want somebody who is intelligent, for sure, you want somebody who can think on their feet, and quite frankly you want somebody who can function in a community living situation. Those are the types of skills you have to test for when you're coming in. You test those skills, you get a composite score, and then you hire the people who have the best overall skill ratio. You will get women, you will get visible minorities and you will get white males, and there's nothing wrong with getting white males.

Mr Stewart: Those were the high standards I was referring to, and I think we have to have them to have the security or peace of mind, whatever.

Mr Fitzsimmons: If you talk to the women and visible minorities on the Toronto Fire Department, they are proud of achieving what they've achieved and they're proud to be there on their own merit. Nobody had to give them a hand up. They're there because they can do it, and because of that they're well accepted.

Mr DeFaria: Do you have any data that say newcomers don't like jobs that require uniforms?

Mr Fitzsimmons: Not here.

Mr DeFaria: Do you have it somewhere else?

Mr Fitzsimmons: I could probably get it.

Mr DeFaria: If you could get it and mail it to the committee, I'd like to see it.

Mr Fitzsimmons: Sure.

Mr Ernie Hardeman (Oxford): A question on the process of hiring the most qualified person: In the fire service it's based on a points system, and the higher up, the more apt that person would get the job. Is there any reason to assume, using slightly different criteria, that that same principle shouldn't be used in other jobs?

Mr Fitzsimmons: I don't understand, if I were hiring somebody, why I wouldn't want to hire the person who had the highest skill level for the function I was hiring them for. To me, it wouldn't make sense not to hire that person.

The Chair: Thank you very much, gentlemen. We appreciate your interest in our process and coming here and being with us tonight.

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DISABLED PEOPLE FOR EMPLOYMENT EQUITY

The Chair: Our next person is Eric Schryer, representing Disabled People for Employment Equity. Eric, welcome to our process. You have 15 minutes.

Mr Eric Schryer: My name's Eric Schryer and I'm the former coordinator of Disabled People for Employment Equity. Unfortunately, it's one of many, many groups that have lost their funding in recent weeks, but we're still here. I'd like to specifically focus in on disability issues and employment equity.

First of all, I and many individuals in our community support employment equity, and it's very unfortunate that it wasn't even implemented, didn't even get time to work. Many persons with disabilities looked forward to more job opportunities through the implementation of employment equity initiatives and legislation. On a practical level, we just saw employment equity, in many ways, as a business plan. In other words, any type of business plan has goals and timetables and measures and ways of doing things. Whether it's managing diversity or managing your manufacturing processes or getting sales up, it's a similar type of thing.

The other point I'd like to mention is that issues of disability and gender and race cannot be separated. They're very intermingled, and many members of our group were women with disabilities, visible minorities with disabilities and native people with disabilities. It was very diverse. Disability cuts across all socioeconomic and gender and racial lines, so that makes it very unique, and that's why we're a designated group.

I'm not going to talk about Bill 8 very much, other than recommending amendments, which I've handed around to everybody. The other thing I'd like to mention is that I've been involved in many committees and different things, everything from the co-vice-chair of the old Ontario Public Service Review Committee, employment equity, many committees of the commission, Minister of Citizenship etc.

One thing I was particularly disappointed in is that I am or was also a member-I'm not even sure if these committees are in existence any more—of the police constable selection committee, as a member of the physical abilities subcommittee, and worked for a number of years very quietly and very constructively behind the scenes to build a whole new pilot project in hiring police constables, the first standardized police constable hiring process in the province. It's supposed to be a pilot now, but whether it's still in existence, I don't know, because everything kind of stopped with the change of government. I'm not sure if that's still going. If that were stopped it would be a real tragedy, because the kind of things that happen behind the scenes, I would say with 80% of employment equity that's really happening; that's going to have a very, very positive impact on the future of Ontario.

Now, back to disability things. Unfortunately, if Bill 79 is repealed we lose a very open and inclusive definition of "disability." Any definition of "disability" must be inclusive. We've got to avoid talking about things like severe disability. I noticed that there are a lot of references in the Common Sense Revolution and many other initiatives in the government of restricting who's disabled. Only 35,000 of one million people are considered disabled in Comsoc and there's even talk about restricting that. We have to really watch that.

Okay, I'll give you the real picture. We're going to talk numbers here. Everybody loves numbers, I know that.

There are one million Ontarians with disabilities of working-age population. This is the 1990-91 census. That makes up about 13% of the total working-age population. More than half these people are not working, are not in the workplace. Of those who are working, many are working below their capacity and skill level.

If you ask any person with a disability, would you rather work than not work, 91% of people say they would rather work than not work. So that's quite a gap there. We have quite a dismal picture here.

If you also asked the question as to what kind of accommodations people request, because a lot of people just don't get into that area, by far the most common requests for accommodation on the job are work redesign and flexible part-time working hours. I think it outstrips it by 5 to 1, all requests for accommodation. Many of them are not very costly and so on. There are very, very few costly accommodations that come up.

What I'm going to do now is, I'm going to just read out quickly I think the kind of thing that should be there, because in the last four years in dealing with many employers the question they ask: Putting employment equity aside, what can we do, what are the things we can do in order to increase the employability and to hire disabled people and get them in the workforce?

I've got nine points here that I'll quickly read through of the kinds of things employers should do. I put it as a recommendation for amendment, because if this kind of stuff is not in Bill 8 it's not going to go anywhere, because equal opportunity is something you achieve after some activities. You don't just have equal opportunity; it's something that comes at the end of a number of initiatives and measures.

It should be recognized that an employer cannot be expected to increase the hiring and retention of persons with disabilities unless they engage in the following types of activities:

(1) Develop an infrastructure for delivering effective workplace accommodations so that the response will be timely if a request for accommodating the needs of an individual comes forward.

Everybody knows people have to be accommodated in their human rights. Where the problem comes in is when something happens nobody quite knows how to do it and that's going to be a big job to work on.

(2) Develop and implement an infrastructure that ensures that all information in alternative formats that is required by print-handicapped persons—persons who are blind, visually impaired, have learning disabilities etc—can fully participate in the workplace and do their work. This includes all forms of information technologies.

Again, large print: If you know how to do it you can do it in two minutes; if you don't know how to do it you run around for a month with about five different people figuring how to do it.

(3) Work towards full workplace accessibility for all types of disabilities. This includes all initiatives that ensure full workplace access to persons with mobility impairments, visual impairments and persons who are deaf and hard of hearing and all other disabilities.

We're talking a little bit beyond just wheelchair ramps and washrooms. We're talking about if a deaf person cannot hear a fire alarm there's ways of getting around that, and there's ways of putting together a workplace that becomes more inclusive and more open for people with visual impairments—clear signage, clear language and designs. There's a whole range of things.

(4) Make sure that all communication infrastructures are barrier-free to ensure the full participation of all persons with disabilities.

Communications again, we're moving into a world of electronic communications. We have deaf people, TTYs. There are many things that can be built into the very nature of doing business. Again, it takes a lot of planning and a lot of work to do that.

(5) Develop a workplace accommodation policy that coordinates all aspects of access, information and accommodation in the workplace.

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(6) Put in place a central accommodation fund that addresses the cost factors for both individual accommodations and systemic access initiatives.

The reason we mention here "central" is so that individual profit centres and individual departments don't worry about, "Jeez, I can't accommodate somebody because it's going to affect my bottom line." It should be a very organization-wide type of initiative so that it doesn't have impact on individual profit centres.

(7) Ensure that the internal technical resources are in place to support accommodation and access to make sure that those responsible know where these resources are located, even if located outside the workplace.

There are times when you may not put the resources in place yourself. You have to know where to go. If somebody asks for something, you say, "Okay, I know where to get it," instead of doing all the research afterwards.

(8) Develop an education strategy within the organization that addresses the need to remove informational and attitudinal barriers.

Many employers have said that really there's a lot of fear, there's a lot of misinformation, there are a lot of attitudes that they have to struggle with. These things can be addressed, again, in a planned way.

(9) Develop an outreach strategy that provides a twoway street for introducing disabled persons in the community to corporate employer culture and for employers to learn about the culture of persons within the disabled community. This will ensure that all qualified candidates in the disabled community will be reached if a job opening comes along.

You have to really emphasize the two-way street, people just getting to know one another. For example in my case, I have never had a job in a large corporation; never in my life. When I was young, because I was vision-impaired, I didn't have those little jobs that people get. Many people who are getting a bit older and have had bad luck with the workplace have quite a rough time unless some corporations become interested in letting people know what it's like, what's going on. A lot of stuff can also be transferred over to other designated groups, because I'm just zeroing in on disability here.

Then you ask the question, how do you put this all together? There have been a number of studies done on what has to be put in place to make this happen. This is especially true for small corporations, and small businesses too. There is a need to establish a council or network that brings together employers, persons with

disabilities from the grass roots and service-providing agencies to explore practical solutions for barrier removal in the workplace, educational and training needs of persons with disabilities and any other initiatives that may lead to increased employment rates.

At this point, those partnerships have not been in place. There have been some employers and some service providers and some disabled people. I'm only aware of one project right now that has a three-way partnership between people with disabilities, service providers and employers, which I'm involved in, called Partnership for Employment, looking at training needs of people with disabilities. This kind of thing has to be done on a much larger scale so that everybody can hear the kind of information and experiences that are required as we struggle with these problems.

I also want to emphasize that we need a made-at-home solution for increasing the employability of people with disabilities. It's very interesting when you look at the references in the Common Sense Revolution to where it's separating out disabled people from other groups, and then they talk about looking at other jurisdictions and some of the solutions in other countries and having special programs for only people with disabilities. We've studied this stuff to death for years and I really think that although it's good to look at some of these things—and these things have been looked at—we should look at a made-at-home solution and not look at things like lovely grant systems and the Americans with Disabilities Act.

We can learn from those and we can look at some of those things, but they also have their problems, as we have found out. Ontario itself has some very interesting initiatives that other countries in the world have never done either. So we have to be very open and look for something that works for us and not that works in, say, a country where you have a different way that unions and governments and employers relate, because we have our own unique way. Things are much different here.

I would like to make two final points. The first one I put down here is a point called "shop for rehabilitation." What do I mean by that? Most rehabilitation in Canada has been done without any sense that people with disabilities will ever work. Most of the service-providing agencies, most of the research being done, do not look at people in the workplace.

There are a few places in the world where there is a much higher level of workshop rehabilitation, where the workplace becomes part of the rehabilitation process. In fact, some of the successes of some of the other programs have more to do with that type of thing than what they actually do in policy.

The last point I want to make is that it's about rehabilitating the workplace itself. I think one of the main problems is that in the past we've been so hung up on taking a disabled person and, through medical restoration and all kinds of other rehab, trying to make a person's ability so much like a "normal, ordinary" person's and, to the degree that you can do that, then you can have a successful candidate for the job. I think what we're going to have to look at now is taking the workplace and finding out how to make it more inclusive and start

accepting disabled people for who they are and how they are, and accommodating through systemic measures, by changing the workplace itself. That can be done in the context of the re-engineering and jobbing-out type processes.

Many corporations, in fact the most profitable, successful corporations, do a lot of this type of work and we fail to include it in the initiatives to deal with the issues for people with disabilities. This goes back to the point I made originally, that the most requested form of accommodation fits almost perfectly in with re-engineering processes many corporations are going through, where you take all the skills and abilities in the workplace, put them into the barrel and then start divvying it out to the people around them who have the abilities and skills to get a process from A to Z or to deliver the goods from A to Z. I have suggested that to many employers, and they should look at that very seriously.

That's the end of my presentation.

The Chair: Mr Schryer, thank you very much. You've done a masterful job of using up your 15 minutes. There's no time left for questions, but we do appreciate your attendance here tonight and your interest in our process.

ONTARIO PUBLIC SCHOOL TEACHERS' FEDERATION

The Chair: The next group is the Ontario Public School Teachers' Federation, represented by Vivian McCaffrey, Jeff Holmes, Christine Brown and Dave Lennox. Welcome to our committee. You have 15 minutes to use as you see fit.

Mr Jeff Holmes: Thank you. My name is Jeff Holmes; I'm first vice-president of the Ontario Public School Teachers' Federation. On my left is David Lennox, who is general secretary of the federation. On my right is Christine Brown, who is the research officer for the federation. Sitting to our rear here is Vivian McCaffrey, who is legislative observer.

In the time we have, in order to leave time for questions, I don't propose to read the brief that you have before you. I would like to draw your attention to some of the salient points.

In terms of the federation itself, the Ontario Public School Teachers' Federation represents 36,000 teachers, occasional teachers and educational support personnel who work in the public elementary schools of Ontario. Our membership includes all of the identified minorities within the equity legislation. We have in our ranks aboriginal persons, persons with disabilities, women and visible minorities. In fact, over half of our members at this present time are women.

We believe that equal opportunity in schools, workplaces and other venues of public life is the cornerstone of a democratic society. Our federation is on record in its support of the various equity initiatives which have been brought to bear on the educational sector over the last few years.

The elimination of workplace barriers to equity is a painstaking and gradual process, and is a process that is not over. The disadvantaging of minorities is something that is with us still. It is better than it was, and part of that is as a result of the legislation, but it has a long way to go. Equity does not happen overnight. Each of the equity initiatives which has been undertaken in the educational sector in recent years has been a further step towards an extremely important goal.

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We believe that the repeal of the Employment Equity Act, as well as other changes proposed in Bill 8, will put the brakes on a gradual process and that the brakes will be put on in a dramatic and counterproductive way.

Ontario is in the process of turning back the clock. In this legislation and in other legislation that is before the House, we are in the process of returning to the 1970s, the 1960s, the 1950s, and we cannot afford to do that, as a province; we have come too far.

With respect to the proposed changes to the Education Act, we question the need to amend the statute. The specific powers of the minister which are at issue are permissive, not mandatory, and no change in that statute should be made lightly. It says within the statute that the minister may "require boards to develop and implement a policy on employment equity for women and other groups designated by the minister, to submit the policy to the minister for approval and to implement changes to the policy as directed by the minister," and the emphasis is on the word, "may." There is no compulsion. It is permissive.

With respect to the rescinding of policy and program memoranda numbers 92 and 111, we believe that this too is a retrogressive move which will send the wrong message to women working in the field of education. Women have made gradual progress in attaining better representation in positions of added responsibility in the schools. Memorandum 111 has been a part of that important process.

When I began my career, the largest percentage of my colleagues were women and the largest percentage of the administrators were men, and it has taken many, many years for that situation to change.

With respect to the repeal of the Employment Equity Act, we believe that the government's approach has been heavy-handed—overly so. The process which was beginning to unfold in the implementation of a new law has proven that labour and management can cooperate when the initiative is in the right direction. The legislated process allowed for an orderly and informed debate among the various workplace parties. The legislated time lines ensured that this debate would reach closure within a reasonable period of time. Unions and management had equal power within the established structure and a real stake in a positive outcome. I would stress the fact that they had equal power; it is an unusual situation. It is one that, unfortunately, we feel has been turned back.

We must ask whether, with the process so far advanced, the government gave thought to simply amending the Employment Equity Act. Jettisoning the act in its entirety will result in the loss of a great deal of valuable work.

We recognize the government's stated intention to develop non-legislated voluntary initiative for workplace equity issues. We do not believe that such an approach will be very effective. There are times when legislation is needed to give a push to good intentions. While this government seems to favour a non-interventionist approach, there is no evidence that the presence of equity legislation is a job killer. There is no empirical evidence to that effect.

At the federal level, employment equity legislation has been in place since 1986. Significant progress has been made, for example, in the banking sector, on equity issues. Despite the imposition of such legislation, profits in the banking sector are at record levels. The industry has committed considerable resources to the goals of ensuring fair and equitable workplaces. There is no reason why employers in Ontario should not follow suit. They may find that it makes good business sense to do so.

We do not believe that the existence of the Human Rights Code is a substitute for equity legislation. We note an earlier commitment made to redirect to the Human Rights Commission funds saved through the winding down of the Employment Equity Commission. We believe that the Human Rights Commission could indeed make use of such funds, especially for the purpose of clearing their backlog of cases. However, serious proactive employment equity legislation will eventually mean that workplace barriers are identified and removed before the necessity arises to litigate before the Human Rights Commission. Preventive medicine, as any physician will tell you, is the best kind. It would be no surprise to us, as a federation, to see that backlog of cases increase manyfold as employees realize that their only access now is through litigation and through the Human Rights Commission.

Once Bill 8 is passed, some school boards may indeed decide to continue the equity discussions that have begun with their employees. However, they will be hamstrung by the requirement of the legislation that they destroy the information which has been gathered under part III. This will set the entire process back considerably. You cannot assess how far you have come if you cannot establish your benchmark.

There was much made of benchmarks today in talk of the need for accountability and the need for the people of Ontario to understand where they stand with regard to education. Well, they have the same needs with regard to equity legislation. If you don't know where you've been, you can hardly know where you are now.

We ask you to reconsider this aspect of Bill 8.

We are concerned about the message the present government seems to be sending on equity issues. Recognition of the rich diversity of Ontario's population is in an evolving process, a process in which government's role should be serious and proactive. We believe this government's stance in these matters should be revised and reworked. We do not believe it's necessary to throw the baby out with the bathwater.

Mr Young: Thank you for coming tonight to make a presentation. You made a statement that there's no evidence, or no empirical evidence, that Bill 79 was a job killer. Literally hundreds of employers have told us that they will not start up, they will not expand, that they

don't want to deal with this legislation in Ontario. We know it's a job killer. There's no 1-800 number that somebody can call and say, "Oh, by the way, I'm not expanding," or "I'm not coming to Ontario because I don't want to deal with that legislation." But with other pieces of legislation, what kind of evidence would you expect to get, that that bill, among others, is a job killer?

Mr Holmes: Well, if I were to turn the question around, I would suggest that employers who are unwilling to come to Ontario and work in the kind of climate that would provide equal access to minority groups are questionable employers at best.

Mr Young: No, no, that's not what they've said. They've just said they don't want to deal with a document, with a law, that goes through a 26-point plan that they don't even understand when they read it. Some of these small companies can't afford to hire somebody to implement for it, so they just go elsewhere.

But how can we measure? There are 500,000 people unemployed and 1.3 million on welfare in Ontario right now, and employers have told us that's why they don't want to be here. It's great for the school boards and the banks, which have unlimited wealth. How can we measure the jobs we've lost?

Mr Holmes: It is perhaps the banks that set the trend, or perhaps the school boards that set the trend and provide an example. I have little faith, frankly, in the employers of this province to move unless nudged. I have very little evidence that would indicate to me that the employers of this province have voluntarily enacted workplace equity in their own workplaces. I do not see vast numbers of minorities being hired, and I do not see the glass ceiling, which has been there for time immemorial, being shattered.

Mrs Caplan: Just to clarify something—if I make an error on this, I'll ask the parliamentary assistant or the staff people to correct me—it's my understanding, contrary to the information that's been given by the Conservative member, the existing Bill 79 has no requirements for any private sector company under 50 employees. Is that correct?

Mr Marchese: That's right.

Mrs Caplan: And that there are minimal requirements for 50 to 100 and that the full weight of the act kicks in for those over 100. Is that also correct?

Ms Nellie Tion: Full, 100 and over; 50 to 100, I don't know if it's minimal, but it's modified.

Mrs Caplan: Modified. That's a better word. And we're talking here to a broader public sector transfer partner. First of all, I want to congratulate you on an excellent presentation and ask you—and I know what the answer is but I still want it on the record—the requirements of the Education Act, is there anything in there that would suggest a quota?

Mr Holmes: No.

Mrs Caplan: So the Conservative government could live up to its commitment to end quotas and not touch the Education Act. Is that correct?

Mr Holmes: That's correct. We do not view affirmative action as a quota.

Mrs Caplan: In fact, there's no obligation-

The Chair: I thought you just said that.

Mrs Caplan: There is no obligation in the Education Act to reach any kind of specific numerical number that could be imposed upon you by the provincial government, is there?

Mr Holmes: No.

Mrs Caplan: That's my question. Thank you.

The Chair: Mr Marchese, you get to finish it off today.

Mr Marchese: I was trying to understand what Mr Young was saying, because a number of them are saying companies recognize that representing the different people in our society is good. Some may not or many may not, but many recognize that it's a good thing, so that automatically they're doing it. On the other hand, I hear Mr Young saying that he heard a lot of employers saying it's not good, it's a job killer and that's why they're not either coming here or those who are here are saying this is bad. But I'm not asking another question, I'm just raising that as a comment.

You mention the banking sector making changes progressively for the better. In the record, on Hansard, I talked about a study the Bank of Montreal did. It was 1990, following the employment equity of 1986. If you heard the views—and it's difficult to remember. I could get it for you. I should have brought it with me. The views the men have of women are rather interesting,

because their views are so stereotypical that they bring you back to the 1950s and 1960s. This is in spite of employment equity at the federal level.

So I don't have all that confidence, as some do, that things are changing nicely because of demographics.

The Chair: Mr Marchese, you have a very short time for the answer here.

Mr Marchese: The voluntary plan that they're talking about, in my view, won't work. What is your view of that?

Mr Holmes: I agree with you.

The Chair: Okay, gentlemen and ladies-

Mr Young: On a point of order, Mr Chairman: I would like to correct the record, and I'll read to you out of the Education Act where it says the representation of women in certain occupational categories to 50% or more by the year 2000. These categories are supervisory, officer, principal and vice-principal.

The Chair: I don't think-

Mr Young: There's also a 30% goal for policy programming.

The Chair: I don't think, Mr Young, it's a point of order.

Thank you very much, folks. I appreciate your coming to share your thoughts with our committee.

The committee stands adjourned until 10 o'clock tomorrow morning.

The committee adjourned at 2133.





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First Session, 36th Parliament

Official Report of Debates (Hansard)

Friday 24 November 1995

Standing committee on general government

Job Quotas Repeal Act, 1995

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Première session, 36e législature

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Vendredi 24 novembre 1995

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Friday 24 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Vendredi 24 novembre 1995

The committee met at 1002 in committee room 1.

JOB QUOTAS REPEAL ACT, 1995

LOI DE 1995 ABROGEANT

LE CONTINGENTEMENT

EN MATIÈRE D'EMPLOI

Consideration of Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

The Chair (Mr Jack Carroll): Good morning everyone. It appears I've lost the clerk and the gavel this morning, but we are going to get started out of respect for those who showed up on time.

TORONTO INJURED WORKERS' ADVOCACY GROUP

The Chair: Our first group is the Toronto Injured Workers' Advocacy Group, represented by Carol McGregor and John McKinnon. Welcome to our committee. You have 20 minutes to use as you see fit. Any time that you wish to allow for questions will be in that 20 minutes and the questions will start with the official opposition, the Liberal Party. So the floor is yours.

Ms Carol McGregor: Thank you, Mr Chairman. My name is Carol McGregor. I wonder if you might accommodate me by having the members of your committee go around and identify themselves by their names.

The Chair: That's no problem. We'll start with Mr Stewart.

Mr R. Gary Stewart (Peterborough): Gary Stewart.

Ms Isabel Bassett (St Andrew-St Patrick): Isabel Bassett.

Mr Joseph N. Tascona (Simcoe Centre): Joe Tascona.

Mr Bart Maves (Niagara Falls): Bart Maves.

The Chair: I'm Jack Carroll in the chair.

Mr Tony Clement (Brampton South): I'm Tony Clement, the parliamentary assistant.

Mrs Lyn McLeod (Fort William): Lyn McLeod.

Mr Gilles Bisson (Cochrane South): Gilles Bisson, MPP, Cochrane South, New Democrat.

Ms Marilyn Churley (Riverdale): I'm Marilyn Churley, MPP, Riverdale, NDP.

Ms McGregor: Thank you. Joining me today is John McKinnon as well, and John will be doing probably the most part of this presentation. The lighting in here is not too great for someone with my vision.

As we've stated, we're here today representing the Toronto Injured Workers' Advocacy Group. The Union of Injured Workers is an organization of injured workers. Since 1974, the union has advised and represented injured workers and advocated for legislative reforms. The Toronto Injured Workers' Advocacy Group, commonly known as TIWAG, is an organization of legal workers from the Toronto area legal communities. Our mandate includes individual representation for injured workers and representation of the injured worker community on issues where systemic reform is needed.

As people with disabilities, injured workers face the same barriers and problems in returning to work that confront all people with disabilities. As part of the disabled community, we are very shocked and hurt by the negativity of this bill. As one who has worked very long to implement employment equity and to bring it into Ontario, I don't know why you just didn't call this the repeal of the fairness in employment bill.

There are no quotas in this bill, and I'm particularly, I guess, very hard hit by it on a personal level. At the same time, I find it very difficult to accept, having just come from Ottawa, testifying before the Senate on Tuesday on the third reading of the employment equity bill that's just been amended by the Liberal government.

As you know, I believe, the Conservative government introduced the employment equity bill on the federal level in 1986, and for persons with disabilities across this country, and injured workers have been a part of it, we are the ones who have brought it to the forefront. We're the ones who have recognized that the voluntary approach has not worked and we have shown on the statistical data that across Canada since 1985, when this bill was introduced, we're showing 1.58% to 2.56% of representation of persons with disabilities in the labour force. Truly, that is unacceptable.

At both the parliamentary hearings last February and in the hearings in Ottawa on Tuesday, there was an indication from parties—I was quite surprised—for quotas for people with disabilities. There was that acknowledgement that they had to go that extra step, that something had to be done to ensure that the barriers were reduced so that people with disabilities could have access to the labour force.

I'm going to ask, John, to turn this over to you. Again, I'm not able to sort of follow some of the print, and I know some of this is very important that we would like you to hear.

Mr John McKinnon: Thank you, Carol. What I'd like to do is to highlight for the committee some aspects of our brief dealing with the experience of injured workers in matters that are relevant both to the repeal of the employment equity legislation and to the programs that are being proposed to replace this bill. I'll also be raising with the committee a proposal for a trial program in the context of the workers' compensation system dealing with employment equity.

To begin with, if I could start with 1980, when the Ontario government appointed law professor Paul Weiler to review the workers' compensation system, one of the striking results of the Weiler studies was the Report on the 1981 Survey of Current Earnings in Permanent Disability Claims. They surveyed over 9,000 permanently disabled injured workers, which was just over 15% of the claims on file, and they had an excellent response rate.

The survey found that 40.1% of the injured workers with permanent disabilities were unemployed. Although we knew that the unemployment levels among injured workers were unacceptably high, it was shocking to find that such a huge percentage of injured workers were unemployed in spite of the best efforts of an entire department of professional vocational rehabilitation counsellors using an array of non-legislated programs. The unemployment rate was also particularly significant in the injured worker context because, by definition, 100% of those respondents were employed prior to their workplace injury and the onset of their disability.

The other striking finding that I think is relevant to your work was that of the unemployed, 70% of them had an earning capacity rating of less than 20%, according to the WCB criteria. That suggests that in spite of a history of gainful employment which evidences the worker's merit, and in spite of a relatively small degree of disability, and in spite of considerable non-legislated programs to aid these injured workers in obtaining employment, a person with a disability still faces very substantial obstacles in getting a job.

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The experience of injured workers led to the establishment by the Ontario government of a task force on vocational rehabilitation services, the Minna-Majesky task force. Their report made many recommendations for improvements at the WCB. One of the recommendations they made which was not followed was a recommendation for a quota system including grants to employers, wage subsidies and tax credits.

However, many of the programs that the Minna-Majesky task force recommended were like those proposed by the current government to replace the employment equity legislation. For example, they recommended more training-on-the-job programs, increased use of formal training, expanded job and workplace modification programs, mandatory reinstatement of injured workers and educational programs to address the attitudinal barriers of management to employing people with disabilities. The WCB's response was to assure us that they were already working on these programs.

Then there was further action in 1989, with the legislative amendments in Bill 162. This included the

accident employer's obligation to re-employ injured workers. Accommodation of the workplace in accordance with the guidelines of the Human Rights Commission was also a part of the re-employment obligations. The amendments also required the Workers' Compensation Board to consider the need of vocational rehabilitation services very soon after the injury and to offer an assessment to all those who had not returned to work within six months.

Again, the legislated changes were followed by another province-wide round of study in 1992, by the WCB Chairman's Task Force on Service Delivery and Vocational Rehabilitation. That report, in turn, recognized the need for improvement in the vocational rehabilitation of injured workers. It recommended the development of programs which promote re-employment and modified work on a province-wide basis.

In the result, injured workers have been the guinea pigs for the testing of more extensive training, accommodation and workplace modification programs than the current government has begun to contemplate developing in lieu of the repealed employment equity legislation. The effectiveness of this combination of many years of experience with non-legislated programs and legislated programs has to be measured by the results of those programs for injured workers.

The WCB published a study of employment rates among injured workers with long-term or permanent disabilities in March 1994. The Ontario WCB reports 78.4% of those injured workers were still unemployed three years after the injury. This was a barely noticeable improvement from the 83.7% unemployment at 12 to 18 months after the injury. Any sense of improvement during that two-year interval from one to three years after the injury was dashed by their finding that about 37% of those who were fortunate enough to have been employed a year after their injury had become unemployed by three years after the injury.

The impact of the re-employment obligations on these results also has to take into account the fact that 30% of the injured workers studied were not protected by the re-employment provisions in the act. But the fact that unemployment among permanently disabled injured workers has doubled after a decade of direct intervention by legislated and non-legislated programs more extensive than the government is now proposing is a terrible indictment of the effectiveness of these non-legislated measures. The injured workers' response therefore to Bill 8 and to the proposals that we've seen to replace it is, in effect, "We've been there and done that, and it didn't work."

Although the injured workers are not monolithic, there has been a growing interest in developing a form of quota legislation to address the unacceptable levels of unemployment among injured workers. I'm not referring to the previous Employment Equity Act as employment legislation, but to the debate as to whether or not real, concrete quotas are effective. Although there have been some concerns expressed about negative ramifications, the erosion of merit in the workplace is certainly not one of them. Every injured worker has experienced the anguish

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of having once been welcomed as a productive employee and now being viewed with suspicion or outright rejection by the same employer. Injured worker unemployment rates are direct evidence of discrimination because of handicap in spite of their evidence of individual merit as workers.

The concern that injured workers have expressed in the discussion about the issue of quotas is that quotas may have a potential to create a ghettoization of simple, menial, dead-end, low-paying, uninteresting jobs into placements for people with disabilities. The concern remains valid, but we don't believe that the entire concept should be rejected without a trial and without some effort to resolve any shortcomings that arise. For example, the Federal Republic of Germany addressed this concern by requiring the employment created for disabled people to be suitable and sustainable, and the legislation there is directed at securing for people with disabilities a place in working life that suits their inclinations and their capacities.

But disabled people need concrete solutions now. Injured workers would have benefited directly and substantially from quota legislation. Judged from the standpoint of getting injured workers back into the workforce, the former government's employment equity legislation did not go far enough. Without specific quotas and short time deadlines set for employers, it would not have moved quickly enough to make a difference for many injured workers.

The level of desperation among injured workers is very high. On occasion, we used to encounter injured workers who had been driven to the brink of suicide. Now not a week, sometimes not even a day, goes by without encountering an injured worker who's contemplating taking his or her own life. As the members of this Legislature know, even for able-bodied people, the inability to obtain employment and provide for one's family can lead to insurmountable despair. Today, injured workers are facing impossible odds. It's a pressing and substantial problem. Injured workers need concrete solutions now. The repeal of employment equity legislation is not going to help, so we urge you to study what has happened under the workers' compensation system. Don't waste the next five years reinventing the wheel. It's been tried. The kinds of programs that we have heard described don't offer any hope for injured workers. Employment equity has to be improved, not eliminated.

We realize that unfortunately the government is committed to the repeal of the existing act. However, it doesn't follow necessarily that the government should move to ban others from choosing to move towards the goal of employment equity. For example, section 14.1 of the Human Rights Code provides an authorization for an employer to establish an equity or affirmative action program. Such a program is declared not to violate the right to be free from discrimination under part I of the Human Rights Code.

Does the repeal of section 14.1 without substituting any similar protection signal a legislative intention that an employer who tries to create employment equity will now face charges of discrimination at the new and improved Human Rights Commission? We believe the provision will undoubtedly have a chilling effect on employers who might have been inclined to voluntarily make the effort. If an employer decides that the next person hired is going to be a disabled person, why should they not be allowed to do so?

Our proposal is for a trial program. In establishing the non-legislative program to replace employment equity, the government should not be afraid to try an experiment with employment equity. How else can you assess whether it is really as burdensome to employers and as detrimental to the merit principle as is claimed? The business community might have engendered the government's sympathy with the general complaints about complying with employment equity, but what about the employers who are adding to the ranks of people with disabilities? Statistics indicate that the employers who are responsible for significant numbers of permanent disabilities are discarding these workers. This should not be happening. When you're talking about the very group of employers whose operations caused the disability in the first place, we hope there is less sympathy for their resentment of a program to employ a reasonable percentage of people with disabilities.

The workers' compensation system gives you a context in which it's possible to test the competing theories of employment equity programs. Not only is there a moral justification, there's an economic one as well when you consider the cost to our society of not having an employment equity program.

We have right now a wage loss system of workers' compensation, and there are huge costs associated with keeping nearly 80% of injured workers with permanent disabilities at home. As well, there is the cost for social assistance for those who are not on workers' compensation. Right now, this cost is spread across all employers, the good guys as well as the bad guys, and the taxpaying public are bearing the burden of the widespread refusal to re-employ injured workers.

We are suggesting that the government should establish a trial program of employment equity within the WCB system. We recommend a grant levy system rather than simply a quota system. A grant levy program should require that a certain percentage of the workforce be composed of people with disabilities, including injured workers.

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A quota system sets numerical targets that must be reached. If they're not, the offender faces prosecution. A grant levy system also sets numerical targets for employing people with disabilities. However, the consequence for not meeting the quota is a levy or a tax based on the extent of non-compliance. It's enforced through self-reporting of employment rates rather than prosecutions. Grants for exceeding the targets amount to a permanent subsidy for the wages of people with disabilities. The system has a known outcome. It can be used by some employers who choose to pay and not comply; however, it can be used by other employers to creatively achieve an important public goal.

In workers' compensation, the pool of employers assumes collective responsibility for the cost of work-related injury. With a grant levy program, the pool will also assume collective responsibility for hiring people with disabilities, including injured workers. This has the benefit of developing a wider range of opportunities for disabled people that are not limited to the current approach which tries to put an injured worker back in the place where he or she was injured. The pre-injury employer may be able to employ people with disabilities even if they have no options for the particular person who is injured in their workplace.

We know the government has expressed strong reservations about employment equity. We hope you won't shy from using the opportunity that your non-legislative programs give to assess the validity of the concerns we have heard. We wish it were possible to raise this type of concern with the minister responsible for the Workers' Compensation Board. However, we have requested such a meeting and we were told that he will not meet with us until he has already released his report on financial changes to the workers' compensation system. That is too late.

We urge the committee to recommend a trial of employment equity in the workers' compensation context and to raise it with the minister responsible for the WCB. A study of the injured worker example will help resolve the debate over quotas for the benefit of all people with disabilities.

Thank you very much for listening to us today.

The Chair: Thank you very much. There's not any appreciable time left for any questions that we can divide up evenly, so did you have any final comments you wanted to make? You've got about a minute.

Ms McGregor: I guess from the perspective of people with disabilities, you have to look into this, certainly the economic cost of keeping us at home. There have been reports of the increase to the cost of Canada pension; welfare costs are rising for people with disabilities; family benefits for people with disabilities are on the increase, as well as welfare. When you factor all of this in to the taxpayer—the taxpayer's intent is not to punish people with disabilities by getting rid of this bill. I don't think that was their intent. I think they thought this bill, the employment equity bill introduced by the NDP, was a quota bill in itself. In fact, it was a numerical goal, a bill that justified employers to set numerical goals for themselves.

We are concerned about the fact that employers are going to be required to just shred that information. That's very disturbing to us because it really does reflect how that workplace is structured. How are we going to be able to monitor how employers are going? I would hate to see us having to go back to the time where we are going to be in courts with employers, either in the court systems or into the Human Rights Commission. We've already been since 1988 with nine complaints against federal employers in the human rights commission federally. That would be a disaster if this is what we're going to be doing in Ontario. But as legislators you have a responsibility to make sure that barriers are removed and that

injured workers and people with disabilities have the equal opportunity as able-bodied people to work in this province. We are being denied that right at this present time.

The Chair: Thank you very much for your presentation. We appreciate your attendance here this morning.

MUNICIPAL EMPLOYMENT EQUITY NETWORK

The Chair: The next group is the Municipal Employment Equity Network, Bonnie McPhee and Ingrid Wellmeier. I'd just like to remind the members of the committee that I think it's fair that we allow the presenters to speak without side conversations going on and that we not interrupt them. So I'd appreciate that.

You have 20 minutes to use as you see fit.

Ms Bonnie McPhee: Thank you. My name is Bonnie McPhee and I'm here because I'm the president of MEEN, which is the Municipal Employment Equity Network. We're a network consisting of better than 60 municipalities across the province, including some boards and agencies of the broader public sector, and we've been running our network for about 10 years now.

I have the easiest job this morning because all I have to do is to tell you that we do appreciate this chance to talk to you about the concerns we have, and also to introduce Ingrid Wellmeier, who works for the regional municipality of Ottawa-Carleton and is going to make our presentation this morning.

Ms Ingrid Wellmeier: Good morning. I guess I'd just like to ask committee members if you prefer that we leave some time for questions. Yes? All right; I'll try to be brief. You have a written copy of our presentation in front of you and so you will have the benefit of reading that, but I'll try to summarize it for you.

First of all, we'd like to say that we are encouraged that the new government is planning to look at some support for equal opportunity measures. Many municipalities in Ontario are of course very interested in continuing with their work of removing barriers affecting women, racial minorities, people with a disability and aboriginal people.

We know that these groups comprise about 70% of the population in our communities today, and we also know, as employers, that by the year 2000 we'll be looking at about 80% of our new job entrants from those groups. Where we're not doing a good job of employing those people, we really know that we have to improve our work in that area. So the kinds of initiatives that many of our member organizations want to continue include reviewing our human resource policies and practices for hidden barriers, advertising and recruiting more widely, continuing to conduct special outreach for those jobs where groups are seriously underrepresented, and establishing strong policies to eradicate harassment and discrimination. Also, we have a strong commitment to improving accessibility and accommodation to all jobs for persons with a disability. And we want to create a climate in our employment that welcomes and benefits from diversity.

We do believe, and we wanted to pass on to you, that certain mechanisms which exist today, such as the race relations directorate, the Ontario women's directorate and the branches of government that deal with people with disability and aboriginal people, may be in a position to help with some of these efforts, as they have done in the past. We want you to look carefully at putting too much of a new burden on the Human Rights Commission. They are already overburdened, and if they were to take on a role such as you have been proposing, we think the part of the commission that deals with systemic investigations and also public education will need more recognition in the form of funding and staffing. I expect they're not equipped to deal with that.

There are three areas I'd like to touch on briefly in Bill 8 that really affect us. The first is the destruction of data that is required. This is quite a serious issue for us. We would like to ask you to clarify that particular aspect of Bill 8, because we understand that a narrow reading of that aspect would require the obligatory destruction of data. We hope that you are intending it to mean only for those organizations that really have no interest whatsoever in doing equal opportunity in the future, because for those of us who do have that interest, that destruction of data would set us back by many years and would really cripple our efforts to take action. So we really want to see some clarification in that area. We believe the desire to proceed with voluntary equal opportunity programs is certainly enough of a reason to allow us to keep the work that we've done in the past intact. We have outlined that argument in our document.

I'll go on to the discussion of the voluntary measures that you may be proposing. Since equal opportunity programs as the government is proposing are to be left to the discretion of employers on a voluntary basis, we believe that related decisions, including decisions about how and what equal opportunity programs may proceed, should also be voluntary. So we believe that this requirement to destroy the data will undo work which we will have to redo at great expense if we want to continue in our voluntary programs.

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We think that the most economic use of existing resources, which Bill 8 should also be addressing, should address means of using the guidelines as a bridge to most efficiently move programs back to a voluntary mode.

The question of fair representation in the workplace, like so many other things that employers have to do from a business point of view, often is based on data. We have no sense of how we're doing with any initiative if we don't look at data. We need data. They provide a positive benefit, whether we're doing equality because it's a law or whether we're doing equality because we wish to. Without data we have no way of knowing what needs to be fixed, where we're doing a good job, where we're doing a poor job and whether or not we're making progress.

The other issue that we are running into and that we're concerned about is the kind of catch-22 situation that these requirements of Bill 8 will leave us in. I'm going to read you a brief excerpt from the Canadian Charter of Rights and Freedoms. It says:

"Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability."

This section then goes on to talk about the fact that this "does not preclude any law, program, or activity that has as its object the amelioration of conditions of disadvantaged groups, including those that are disadvantaged because of race, national or ethnic origin" and so on. In other words, this is the very legal underpinning of an equal opportunity program, an employment equity program, whatever you want to call it.

Similarly, the Ontario Human Rights Code contains the same provisions, "...a special program designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve" equality is allowed in the Human Rights Code. The Human Rights Commission has prepared guidelines on special programs such as equal opportunity programs. These are the very guidelines that employers like ourselves have been basing our efforts on to improve equality in our workplaces for many years.

When we look at these guidelines of the Human Rights Commission, one of the things they direct us to do as employers is to provide a rationale of why we're doing a special program, and it tells us, "Evidence of hardship or disadvantage should be objective and where possible, quantifiable, as opposed to impressionistic...." In other words, we're being directed to take an objective look at what we're doing as employers, not just an impressionistic look at it. They go on, "For example, in order to show disadvantage in the form of underrepresentation of a designated group, statistics may be necessary."

They note: "Data collection documenting the type and extent of disadvantage experienced by designated group members will often form the foundation for establishing the need for a special program. Ongoing data collection will also provide a means of assessing the results of program initiatives and a tool with which to assess the need for further special measures."

And they tell us, "In employment equity programs"—similarly, equal opportunity programs—"internal workforce data and applicant data may be collected and compared with external data on designated group availability in order to demonstrate underutilization of particular groups."

These guidelines obviously don't have the force of law, but we as employers have concluded that they were written and formulated with consideration to the provisions of the Human Rights Code and relevant case law, and also the expectations of boards of inquiry, so we have taken those guidelines and used them for many years now.

We believe that special measures to ameliorate social and economic disadvantage in the workplace which arise from unfair discrimination and so on are permitted by both the federal and provincial law. We have used these measures in the past, and we will continue to need to use these measures if we are to try our best to continue to follow the kinds of principles that you have outlined in your equal opportunity plan.

However, if the provisions of Bill 8 are narrowly defined and applied and we have to destroy all of our data, we will be at a distinct disadvantage in being able to do that. We will find ourselves in a catch-22; we will not be able legally to do the very voluntary programs that you are, in a sense, directing us to do. That to us is a very serious concern.

In a nutshell, as employers and as organizations committed to reflecting the face of the population in Ontario today, we are asking that you take a look at this and do not hamper our efforts to do what we think is an important part of our job as employers in serving our population and our communities today.

The Chair: Thank you very much. We have about two and a half minutes per party, starting with the official opposition.

Mrs McLeod: I appreciate your brief and the emphasis on the concern with destruction of data. It does seem to me that any employer that is determined not to proceed with employment equity will voluntarily destroy their data without being ordered to do so. It's a bit of a moot point.

Ms Wellmeier: Probably.

Mrs McLeod: The question I have for you could be the subject of another brief, or several of them, so I'll just give you an opportunity to comment on one of the concerns that I have: the whole issue of dealing with systemic barriers to equal opportunity, whether there is legislation or not. I would like you to comment, in the two and a half minutes we have, on your sense, as municipal employers, of some of the barriers and the challenges to dealing with those barriers, particularly in times of restraint. I guess if you can as well—will it be more difficult to deal with barriers in the absence of legislation?

Ms Wellmeier: Certainly we can still do the work that we need to do. In the absence of legislation, obviously there's less impetus out there to do it, and it really depends, in the case of organizations like ours, also on the politicians and the particular context that we work in.

The commitment to employment equity in our organizations has probably waned somewhat with this change, so we were looking at really perhaps more work being done when we did have legislation in this area. However, many of our organizations are fairly committed to these issues.

The work itself, the work of removing systemic barriers, of removing unintentional discrimination, can go ahead without legislation. In times of economic difficulty, of course, it is harder to do any of these kinds of initiatives, but theoretically, where the will is there, it is the kind of work that we hope to be able to continue doing.

Many of the barriers, of course, are sort of institutional, and whether or not we are in a mode of hiring people, which most of are probably not right now, we can still get some of that work done and we hope to be able to do that.

Mrs McLeod: Are you concerned it will be on a back burner as organizations like yours struggle to survive?

Ms Wellmeier: Yes. Many of our organizations are very concerned about that, and that is the kind of climate that many of them are operating in.

Ms Churley: As a New Democrat, I of course am deeply disturbed by the repeal of our employment equity bill, because we felt it was a balance; it wasn't quota. Leaving that aside, this government is moving ahead. I want to come back to the issue of destruction of the data.

I've heard members of the governing party express views that they want them destroyed because it was done under duress, that people were forced to do this, and there could be real problems around privacy. I want to ask you two questions, because I think if there's one thing we want to achieve in this committee it's an amendment to that.

Would you collect, if you had to do it all over again, the same data or very similar data? And what do you do about protecting people's privacy with these data?

Ms McPhee: If I might answer that, our organization and many municipalities have collected data. We collected them under Bill 79, but we have also collected them twice before that. It's sort of the first step of any equity program, as a general rule. So certainly we would have done it, we have done it, we would do it and we will probably do it again because we will have no other way of measuring. You only do what you measure.

Ms Churley: So essentially, if you had to destroy these data at great cost, you'd just do it all over again but collect essentially the same data?

Ms McPhee: We'll have to, yes. As I say—

Ms Churley: The same kinds of data, or would you make changes?

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Ms McPhee: No, I don't think so. Essentially, I think that the data we collected were pretty well consensual. Most places do it that way regardless of the law and it fits with the federal program.

Ms Wellmeier: The other thing I might just say about the privacy and confidentiality, that is a very strong concern. It's a strong concern of our employees. It was something we had to look after before we collected those data; it's something that any employer would look after. It is protected by a number of other pieces of legislation, including the municipal freedom of information bill. It's the kind of data that are kept confidential and that are used only for very specific purposes. That is what our employees understand, that is the basis on which we collect them and that would be the case at any time that we would collect that kinds of data.

Mr Maves: I just wanted to say from the outset that any data compiled prior to Bill 79 you can keep. I'll let the PA talk to that a little later.

I had two quick questions. Under Bill 79 the data were voluntary, and in one large institution here in the broader public sector more women than men chose to self-identify. Consequently, the proportion of females to males was artificially inflated, thus reducing the equity argument for hiring and promoting women. How have municipalities accounted for that in their collection of data, that non-compliance might skew the statistics?

Ms McPhee: First of all I would say that many, many of our members have not collected data. They didn't get that far and didn't get that done, so they haven't got it,

period. Speaking for ourselves, I think about 97% of our employees self-identified and it didn't come up as an issue. We tried to do it in a cooperative manner with our employees, as opposed to to our employees. I think that's the key to data that makes any sense.

Ms Wellmeier: In general, human resources professionals who encounter that kind of a problem would probably go back to the drawing board and say we didn't do a good job with our employees; and unfortunately we did not communicate the intention and the protection that we were going to put in place in collecting these data. Therefore, it would probably not be valuable for their purposes and they would probably want to go back as an organization and do a better job.

Mr Maves: At the start you had mentioned that your member organizations had undertaken initiatives of advertising or recruiting more widely and conducting special outreach for jobs for people and groups. Could you give me some examples of those?

Ms Wellmeier: I can give you some examples. One of the things that we used to do in the Ottawa region was, we would only advertise jobs in two newspapers, one French- and one English-language newspaper. We now send all external job postings out to somewhere around 30 or 40 community organizations that represent a whole range of people from various cultural and ethnic and racial communities, including the groups that represent people with disabilities. That's a very small step but it's a useful step to do. We just try to reach out a little more broadly than we did in the past, acknowledging that perhaps not everyone reads these two daily papers.

Mr Maves: I agree.

The Chair: We appreciate your attendance here this morning and being part of our process. Thank you very much.

WATERLOO REGION EDUCATION AND EMPLOYMENT EQUITY NETWORK

The Chair: We have to skip one on your schedule. Mark Hertzberger, secretary-treasurer of the Waterloo Region Education and Employment Equity Network, welcome to our committee. You have 20 minutes to use as you see fit. Any time for questions at the end will start with the third party, the NDP.

Mr Mark Hertzberger: Thank you very much. I am here on behalf of WREN—I'm sure you've had your share of acronyms during these hearings—which is the Waterloo Region Education and Employment Equity Network. My actual position is the human rights and disability adviser with the regional municipality of Waterloo.

On behalf of the Waterloo Region Education and Employment Equity Network, or WREN, I would like to thank members of this committee for the opportunity to comment on Bill 8.

WREN was founded in April 1987 by employment equity practitioners and HR professionals from the Waterloo-Wellington areas. Its membership reflects diverse sectors, including municipalities, hospitals, public and separate school boards, post-secondary institutions, community agencies and private enterprise. WREN's

mandate is to provide public education on equity-related issues, as well as support and resources for employment equity practitioners.

To begin with, our membership expresses regret concerning the proposed repeal of the Employment Equity Act. This legislation has provided the initial impetus for many organizations to become informed about employment equity issues and to seriously examine their employment practices to ensure fairness. For those organizations who had already implemented employment equity programs, Bill 79 provided a framework and a basis of comparison to ensure a reasonable and comprehensive approach. It also provided for all employees to be informed and involved in the development of employment equity programs for their own organizations.

We are encouraged, however, that the government intends to implement a plan to remove systemic barriers and to ensure fairness and equal opportunity in the workplace. These are the same elements that were implicit in Bill 79 and we are very pleased to see that there are plans for their continued promotion. We see these as important measures that will ultimately reduce the need for future human rights hearings by being proactive.

At the same time, we're puzzled by Bill 8's reference to the restoration of the merit principle. It has been the experience of our members, both prior to and under Bill 79, that establishing merit as the determining factor in employment has always been the prime objective in employment equity planning. Making hiring practices consistent and fair for all groups is what allows merit to be the deciding factor. Organizations that have introduced their employment equity programs in this way have seen progress towards a more positive and productive work environment, one that taps the talents of a diverse employee population.

With this in mind, WREN would like to make the following recommendations with regard to Bill 8 and the Ontario government's proposed six-point equal opportunity plan.

- (1) Establish bridging promptly so that the considerable work already completed by employers towards systems review and barrier removal under Bill 79 will not lose momentum and result in costly duplicated effort. We think there's a lot of good work that's been done already by employers and if we can build on that work and use the systems already established, that would be very beneficial.
- (2) Educate the public regarding the universal benefits of barrier removal and fair hiring practices. Our members have had no difficulty in establishing employment equity programs which benefit all employees. For these to succeed, however, the popular but erroneous impression that these programs only benefit select groups needs to be countered through effective education and publicity. The advantages of a broader and more diverse hiring pool also need to be conveyed.
- (3) Educate at the public and secondary school levels to encourage entry into non-traditional careers for both males and females and to inform all students of their rights to equal treatment and opportunity under the

human rights legislation. It has been our experience that schools need to go substantially further to foster awareness and confidence in our young people so they may form a workforce that utilizes their full talents and truly reflects the diversity of our society. This is something that members of our network who are on school boards have noticed. There's a long way to go in terms of encouraging girls to go into engineering and those kinds of occupations.

(4) Continue to allow for the retention and future collection of quantitative information. This is something a number of speakers, I know, have alluded to. As with any effective operational plan, clearly defined, quantifiable objectives are essential to ensure progress. I'm sure you've all heard the phrase, "An organization gets what it measures," basically.

Operating equal opportunity programs without demographics or numerical goals raises three potential scenarios, and I think you'll agree that none of these is particularly desirable:

Systems review and barrier removal may be based on evidence that's anecdotal or "gut feel" evidence, or subjective. As a result, any corrective measures taken may be inadequate or, conversely, they could be excessive.

The absence of demographic profiles and quantitative goals mean that the program initiatives may be continued beyond the time that they are needed, in effect, navigating without instruments or flying blind. There's no sense of how far progress needs to be made.

The lack of objective numerical data will mean that any human rights challenges to an organization's hiring practices will be difficult to adjudicate, making the process more time-consuming and costly for the employer and for the Human Rights Commission.

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Many employers have already invested substantial time and resources to collect and analyse data that is essential for establishing realistic programs. Requiring the destruction of information gathered under the Employment Equity Act will mean that these employers will need to duplicate their efforts, at considerable expense, by recollecting the same information under section 14 of the Ontario Human Rights Code.

WREN asks that this information be left intact, with the express intent that it be used only as a tool to establish focus and direction for barrier removal and equal opportunity measures, not to implement rigid quotas.

In summary, if the intent is to replace Bill 79 with a more realistic plan, we ask that employers be provided the support and the tools that will enable them to develop programs that are meaningful to all employees and will optimize the productivity of their workforces.

The Chair: We have about four minutes per party left for questions, starting with the NDP.

Mr Bisson: I first of all would like to thank you for taking the time in order to come to present to this committee and thank you for the work in putting together your brief.

You've been going through the process—I guess I have a couple of questions. The first one, on the question

of throwing away the data, if I can hear your comments on that, because unfortunately I stepped out of the room I think at one point and I don't know if you mentioned anything on that, but the destruction of the data—how do you feel about that?

Mr Hertzberger: One of our chief concerns is that there has been a considerable amount of time and effort invested to collect this data and we feel that without the data essentially we're flying blind, that there's no really quantitative way of measuring the progress of our programs or of indicating where it is that the barriers need to be removed. We look at the data as being almost like an indicator light in terms of showing where the areas are that need to be examined and also then to indicate our progress as we go along. So we feel it's very important that we have the ability to use this data that we've worked so hard to collect.

Mr Bisson: I also take it from your presentation that in general you're supportive of the idea of employment equity.

Mr Hertzberger: Certainly.

Mr Bisson: If not by legislation, how? How do you advance the goals of employment equity if you're not going to have legislation that puts the feet to the fire of employers to make sure that they go through the process? How do you do that?

Mr Hertzberger: I think ideally there should be legislation because I think the members of our group, many of them, have been involved with employment equity long before the legislation came in, but there are other employers who we feel probably would not take the necessary steps unless there were some form of legislation to require them to do that.

Mr Bisson: Would you say the majority of employers wouldn't take steps to end discrimination in the workplace if there wasn't legislation?

Mr Hertzberger: I don't know whether I can really comment on whether it would be the majority of employers. I think there are some who would not.

Mr Bisson: Significant?

Mr Hertzberger: A significant number, I would say, based on what I've heard at various seminars and so on.

The Chair: The government, Mr Maves.

Mr Maves: Just quickly I want to congratulate you on some of your suggestions and recommendations revolving around education. We've had several groups come through and talk about outreach programs in education and I believe in that a great deal, so I congratulate you on that initiative.

One of your comments at the start was about the restoration of the merit principle and that the ultimate goal of hiring is always to be based on merit. I agree and I think we agree. But I want to just kind of give you an example, more in the way of a statement than a question, I guess.

I was at an employment equity seminar with a large company in town the other day and there was a black gentleman who is a personnel employment equity consultant. He was doing a presentation and in his presentation 24 NOVEMBRE 1995

he said that he was a banker in a major Canadian bank and he was the worst banker in the world—it's a fairly humorous way of making his point—and each year he would get a raise and a promotion. After a while obviously he began to say, "Something's wrong here because I know I'm not working very hard, I don't like my job and I'm getting a raise and a promotion every year." So one year after getting a raise and a promotion—

Mr Bisson: I just want to point out that it happens with white people as well.

The Chair: Excuse me, Mr Bisson.

Mr Maves: —he intentionally did as little as he could, and at the end of the year he got a raise and a promotion.

Mr Bisson: Oh, Jesus.

Mr Young: Watch your language. On a point of order, Mr Chair—

Mr Maves: So the gentleman then said that he was—

The Chair: Excuse me, Mr Maves. Mr Bisson, we've established some decorum in this committee, and I expect you to respect it.

Mr Bisson: I am respecting it, Mr Chair, as heavily as the past Tory caucus did for the last five years here.

Mr Maves: Mr Bisson is missing the point.

Mr Young: On a point of order, Mr Chair: The member opposite is offending Christians in the room by saying the name Jesus in vain. I find it offensive.

Mr Bisson: I apologize.

Mr Maves: I think Mr Bisson is missing the point a little bit.

Mr Bisson: I'm not missing it, not at all.

Mr Maves: The gentleman realized what was happening, that he was being promoted to reach numbers so the company could reach its numerical goals. So he resented this, and he quit. He's now very successful in his own business. He said to us that this is the result of numbers-based programs, that quite often the numbers become more important than the principle and merit and the ultimate goal of breaking down the attitudes and the barriers. That's why he believed numbers-based programs didn't work. I think we have a similar philosophy.

By way of a statement, I just wanted to tell that story because of that paragraph you had down there. But again, thank you for your presentation and your programs and your initiatives around education.

Mr Hertzberger: I wonder if I could just comment on that for a moment. I think with any system, any government act or regulation, there's always the potential for misinterpretation and misuse. I really believe that half the battle with employment equity in any aspect is educating people as to how it's to be used and that in fact the numbers are not there as ends unto themselves but as indicator lights, as I said, or something to give you some idea of where you're progressing with it.

I've heard that story. That was Trevor Wilson, I believe.

Mr Maves: I would never name names.

Mr Hertzberger: But he tells this story publicly, and I've read articles by him. I guess I'd have to respond that many organizations, in my experience, do not have a very effective performance management system. I think that a poor performance management system can miss a lot of people, regardless of what group they are from, and people can progress in that system regardless of merit. So I don't think it necessarily ties into the person's race or, if it does, I really feel it's, again, a misinterpretation or a misuse or simply a lack of information around what employment equity is about.

Mr Sergio: Mr Hertzberger, it's the second time—once in answer to the last question and once during your presentation here—I have a little bit of a concern because you seem to be putting a lot of attention on the fact that the objectives and concepts of equity within the workplace can be best served through education and publicity. You seem to be stressing this particular point. Do you really believe that with the elimination of the objectives, the guidelines and the legislation of Bill 8 that the public, with whatever education, the employers, will continue to protect the rights of minority groups, handicapped people and women?

Mr Hertzberger: No, I don't believe that everyone will. I think there's a core of employers that will, that are already well involved in this kind of action. I think in an ideal world our members would like to see the legislation retained. But I'm saying that in the absence of that it would be much better to educate and make sure that employers understand. Perhaps employers would adopt this program more readily if they were to understand the true intent and the true focus of what employment equity should be.

Mr Sergio: Without Bill 8, sir, there would be no guidelines. Do you understand that?

Mr Hertzberger: Without—sorry?

Mr Sergio: Without the objectives of some government regulations, there would be no guidelines which employers could go by. Do you understand that?

Mr Hertzberger: I understand what you mean. I guess I'm referring to the proposed plan that comes after this repeal, and those are the sorts of guidelines I was referring to. But those would not be viewed by my members as the ideal situation. The ideal situation would be to have something legislated.

1100

Mrs McLeod: I guess we still have time for another question. The government has indicated, on the destruction of data issue, that you don't have to destroy any data that was collected prior to the introduction of Bill 79. Does that solve the problem from your perspective?

Mr Hertzberger: For some members, it does. Some members have gone ahead and done their employment surveys long before the legislation came out. Others waited to make sure that they were collecting the right data to get it exactly right. Now those employers are the ones who are going to have difficulty because they potentially could be required to destroy it and have to go back and recollect. So yes, it is going to be a problem for some employers.

The Chair: Thank you very much, Mr Hertzberger. We appreciate your attendance here this morning and being part of our process. Have a good day.

Mr Hertzberger: Thank you.

TAMIL RESOURCES CENTRE

The Chair: The next group is the Tamil Resources Centre, Nellian Sivahurunathan. I hope I came close on the pronunciation of your name, sir. Please come forward.

Welcome to our committee. You have 20 minutes to use as you see fit. You can leave any part of that time you want for questions. The questions will begin with the government, should you allow any time. The floor is yours, sir.

Mr Nellian Sivahurunathan: Thank you very much. Good morning, gentlemen and ladies. I would like to ask the Chair whether the members would like to have copies of my presentation.

The Chair: We already do.

Mr Sivahurunathan: Oh, you have. Fine. Thank you very much.

Mr Bisson: That's why we ask for 30 copies.

Mr Sivahurunathan: Yes. Forgive me if I make any mistakes in my English because English is not my first language.

I am a project coordinator representing the Tamil Resources Centre, which is located downtown, on Parliament Street.

The Employment Equity Act is a symbol of hope and a protection for visible minorities.

I am making my deputation on behalf of the Tamil Resources Centre, a non-profit community organization, the members of which are of the South Asian community who are recognized as a visible minority. We work towards public education and advocate for effective democratic and human rights. We do believe that people of ethnic minorities should be recognized as equals with the majority of Canadians, and we affirm that we will contribute to the prosperity and unity of Canada.

Within this opportunity of sharing our viewpoint on this issue, I do not want to take your time by re-emphasizing that the repeal of the Employment Equity Act will deprive the designated groups, including the ethnic minorities, of the rights and opportunities in the Ontario workforce provided by the Employment Equity Act and that all racism will be practised more openly in the workplaces.

Since November 16, 1995, we learn that many organizations have been making their deputations to you, emphasizing the importance of the Employment Equity Act and the potential consequence of its repeal. Therefore, we would like to take this opportunity to express to you how the ethnic minorities experience discrimination in Ontarian society and how we view the Employment Equity Act.

There are thousands of university-educated members of the South Asian ethnic community who are struggling to make their living in this society. As well, thousands of people with professional skills of the same ethnic community are suffering because they have not found a way to get into the workforce of Ontario. The majority of them are underemployed or unemployed due to the recession.

These university graduates wash dishes in restaurants. Some of them drive taxis. Those who have earned university degrees and trained as physicians, lawyers, accountants, architects and scientists in their home country are employed here as labourers. They have been refused promotion in their workplaces. The employers' or senior staff's reply has almost always been that the ethnic group members have neither Canadian experience nor do they have fluent Canadian English. By contrast, we are gathering information that people who are not visible minorities and who do not speak Canadian English have been employed and have been promoted in this country.

We are not jealous of these people who obtain employment and promotions. What we ask the government to do is to make or to maintain a law which recognizes our education, our skills, our talents and our experience. According to a Statistics Canada report, people of ethnic minorities have proved their talents and skills when employed. They have also contributed to the prosperity of Canada. But now these same people are suffering by being underemployed or unemployed.

Ontario will gain an advantage by giving an opportunity to these people in its workforce. A member of our ethnic community who is employed and who earns an adequate living will support not only his or her family, including adult children, but also an extended family including parents and grandparents. According to the principles of their culture, they prefer to live together and to support each other. This alleviates the burden that the government would have. Employing one person within our communities guarantees the lives of not just one person but also of the extended family.

These are difficult economic times. Within this situation, ethnic minorities began to view the Employment Equity Act as the only creation of the Ontario government which would give some hope that they would secure an opportunity for obtaining work and then for earning promotions. The ethnic minorities view the Employment Equity Act or similar legislation as an introduction of democracy into the Ontario workforce.

They view the Employment Equity Act or similar legislation as a political creation that would weaken racism, build unity among workers of diverse cultures, paving a path to build a healthy multicultural society. We admit that the arrangements stipulated in the Ontario regulations made under the Employment Equity Act are not perfect in some areas. These problematic areas can be corrected. We do affirm and applaud the principles of this legislation. If the present Ontario government believes in the principles of democracy and multiculturalism and if it respects the values and the talents of the ethnic minorities, it should withdraw Bill 8 or devise a better Employment Equity Act.

The Chair: Thank you very much, sir. Your English was just fine. We now have about four minutes per party for questions, beginning with the government party, Mr Clement.

1110

Mr Tony Clement: Thank you very much for your worthwhile presentation. You raise some very serious issues. I just wanted to key in on what we call—in government circles, anyway—access to professions and trades, the inability through barriers set up by professions and trades of people coming to our country to use their job skills. It creates a tremendous waste in our society when people who are trained as engineers are working as cooks and they're not able to use their training properly.

There are a couple of different levels to that. One is, credentials assessment, the proper assessment of foreign credentials and taking them into account. The other is, language requirements. You don't have to know the complete works of William Shakespeare to do a particular job in a particular trade or profession.

I want to assure that the minister feels very strongly about those areas. Without the framework of employment equity legislation, there are still things that government

My question to you is, if we key in on that and work with the professions and with the trades to do credentials assessment, to make sure that we have the proper language requirements but that are not overrequirements but the proper requirements for the trade or profession, do you see that as working without the framework of employment—do we need a Bill 79, an employment equity bill, to do that, in your opinion, or can we do it separately?

Mr Sivahurunathan: I believe that the Ontario government may introduce certain programs to help these people. But the thing is, we don't have a legal assurance if you repeal this Employment Equity Act.

Mr Tony Clement: So that's what you're looking

Mr Sivahurunathan: Yes.

Ms Bassett: Mr Clement has asked most of my questions, but if I could just do a preamble. Thank you for your presentation, and I wanted to say that just because we're repealing Bill 79, we do want you to know and everybody to know that we do support equality of opportunity in the workplace for people of all backgrounds and religions. We want to make sure that you go away with the feeling that our intent of reaching that goal is just different than yours, but we do want to reach it, so we value your comments today. Mr Clement hit on what I was going to ask.

The Chair: Mr Stewart, have you got a quick question?

Mr Stewart: Yes, a very quick question. You're talking, sir, about legal assurance for those who are coming in. Do you not still believe that ability and merit is still the main concern or the main product that they have to have to do the job?

Mr Sivahurunathan: I beg your pardon, sir?

You're talking about having legal Mr Stewart: assurance for those folks to have a job when they come in, if they're an engineer or a doctor or whatever. Do you not believe that merit and ability should not be primary in that consideration rather than a legal assurance that they're going to be considered?

Mr Sivahurunathan: We do believe that merit and ability must be given priority. But the thing is, for example, there are some of the laws like criminal legislation. If people violate the Criminal Code, then you have a watchdog, the police, the Attorney General's department to watch what's happening. If somebody violates the code, then you will take action. But in the ordinary workforce if something happens, say, suppose a person from a minority is failing to get a chance to get a job, the employers refuse to give a chance, they don't come out and say, "You belong to a minority community and you don't have speak Canadian English and that's why we don't hire you." They don't say that.

They do everything behind a screen. They take their decision behind their screen so there's no watchdog. So there's no watchdog. There's no watchdog—that's what I can say—to see what's happening there, whether their rights are violated or whether these people are discriminated against. We don't have that. But the Employment Equity Act, as far as I am concerned, imposes certain duties on the employers. So that's why I do prefer that

Mrs McLeod: Mr Siva—Sivahurunathan—now you know who has language difficulties—can I ask you first how long you've been involved as a project coordinator in working with employment equity in your community.

Mr Sivahurunathan: Sorry?

Mrs McLeod: How long have you been involved in working as a project coordinator? I get a sense of your frustration and I'm wondering how long you've been at

Mr Sivahurunathan: Only for five months, but before that I had been involved with this organization. Also, I translated the summary of the Employment Equity Act and the regulations into my language. So from that I learned all the contents of the act.

Mrs McLeod: I was sensing an element of frustration when you spoke about the need for legal assurance, because I think many people in your community have heard governments over a long period of time talk about how important it is to take action on trades and professions, but the actual results aren't always there and that legislation perhaps is as much an enforcer for government to take action, because government is required by its own laws to act.

Mr Sivahurunathan: Right.

Mrs McLeod: I wanted to just pursue Mr Clement's area of questioning a little bit and ask about the setting of standards that would clearly recognize the certification that has been gained in other countries, including the language requirements. Is it sufficient to set the standards, or do we not have to go beyond that to provide, for example, language training, re-entry opportunities, the sort of proactive things that would help people to meet those standards so that they can in fact practise in their field? I'm wondering if you see that as one of the barriers, that language training opportunities aren't there, the retraining opportunities aren't there.

Mr Sivahurunathan: As far as I am concerned, the programs are not enough to help with, especially, the professions. I have my own experience. I joined a university to get my equivalency, but to get my admission in a university I took some English classes here in a high school. But those courses did not help me really, so I am taking some courses on my own by paying fees to private colleges.

Mrs McLeod: Are there other very specific barriers that you see for people in your community?

Mr Sivahurunathan: No.

Mrs McLeod: That's the one.

Mr Sivahurunathan: There's no co-ordination between the government services and the community. I can give more information. Right now I am ready to give you all the information, but I am thinking about that, getting information from the people. I know how they are suffering, so I'm prepared to focus on the suffering today before you.

Mr Bisson: A very quick question and then a comment after. You said that you did the interpretation from English to your own language of the Employment Equity Act.

Mr Sivahurunathan: Right.

Mr Bisson: Did you find the word "quota" in the translation? Was the word "quota" there?

Mr Sivahurunathan: No, sir.

Mr Bisson: Excuse me. I didn't hear you. It was not there?

Mr Sivahurunathan: There is no quota. What I understand from the legislation is that I really believe that the Employment Equity Act is legislation which conveys or carries democratic principles. What it shows is that the Ontario community has several groups of people, so this regulation says that each community must be represented in the workforce.

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Mr Bisson: I know very well. I'm the guy who drafted the act. So you say that in translation the word "quota" was not in the act.

I want to ask you a second question flowing from that. Do you find the title of this act offensive, under Bill 8, the Job Quotas Repeal Act? Do you find that offensive? The word "offensive" in my language means to say when you read the title of the act, Bill 8, that it's not true, it's offensive.

Mr Sivahurunathan: We believe that it won't help us, it won't work.

Mr Bisson: Let me just very quickly go through something that a person who immigrated to Canada many years ago, the early 1950s, told me about employment equity just recently. He came to Canada and immigrated here and talked about how his community, the Italian community, had many difficulties gaining really good jobs in the Canadian economy when they first came. The only jobs they would get were those jobs that employers were willing to pay very little money for.

He talked about how in his day it was difficult as an Italian Canadian coming here, but he wonders how much more difficult it is for somebody coming to Canada who not only doesn't speak the language but is a visible minority. He said that back when he came here he always felt there needed to be some kind of law to help his Italian friends who had come to Canada be able to get real jobs, not just the jobs shovelling the ditches and cutting down the trees and working in the mines, but to get jobs that they were trained for. They were university graduates, they were college graduates, they were administrators, they had a lot of skills and they couldn't get jobs like that. They would work digging ditches.

You have a lot of people in your community who, I imagine, are very well educated.

Mr Sivahurunathan: Oh, yes.

Mr Bisson: Do you find that they have a hard time trying to find jobs?

Mr Sivahurunathan: Really, sir, it's true. I'm a Sri Lankan, my native country is Sri Lanka, and there are about 3,000 university-educated graduates out there.

Mr Bisson: So not much has happened in 40 years. We still have educated people coming to this country who have difficulty getting jobs. On that point, do you think the legislation is needed in order to promote those educated people with lots of skills, with lots of qualifications or merit, as they say, to get jobs? Do we need legislation to help them?

Mr Sivahurunathan: That's true. I agree with you.

The Chair: Thank you very much, sir. We appreciate your interest in our process and your presentation here this morning.

Mr Sivahurunathan: Thank you very much for listening to our voice.

BHAUSAHEB UBALE

The Chair: Okay, the next presenter, who's coming on a little early, is Bhausaheb Ubale, a former race relations commissioner. Mr Ubale, welcome to our committee. You have 20 minutes to use as you see fit. Any time you leave for questions will be divided among the parties, beginning with the Liberal Party. The floor is yours, sir.

Dr Bhausaheb Ubale: Thank you, Mr Chairman, ladies and gentlemen. I'm glad to have this opportunity to share my thoughts with you. They are discussed in the submissions I have made and I understand you have all the copies of my submission—they are quite detailed—but I'll try to summarize them here.

I must state at the outset that I'm going to speak on employment equity as it relates to minorities. My support, and I say that, to Bill 8 is not prompted by political or ideological considerations. My views on this subject are based on my lifelong experience in three continents as a victim of racial discrimination, as a public policy practitioner and as an independent thinker. My views contained in my book—this is my book, Politics of Exclusion—predate employment equity.

Employment equity is seen as a panacea for employment problems. Instead of fixing problems associated with the implementation of the Human Rights Code, we have created a giant social division through employment equity. I strongly believe that in the long run equality of opportunity, backed by forceful enforcement of the Human Rights Code, based on zero tolerance by society

at large, is the most efficient and effective substitute for employment equity and is the best solution for integration of minorities into mainstream society.

This is reflected both in the report I submitted to the government of Ontario in 1977, entitled Equal Opportunity and Public Policy, and policies and programs I've followed as Ontario's race relations commissioner until 1985.

It is my cherished belief that progress in human rights can be made only by patient chipping away of encrusted differences rather than bold strokes. A person can easily do a vast amount of harm by advocating changes from mere enthusiasm. I oppose the employment equity bill on the following grounds, and I'll list them one by one:

Employment equity is inherently and dangerously divisive. It feeds the fire of hatred and also endangers equality of opportunity. It emphasizes ethnicity rather than ability. When I immigrated to Canada from the United Kingdom 20 years ago, I came as an individual, not a member of a group. I also came here with the requisite qualifications and experience. Hence, others like me, and I, expected that our integration into the mainstream of Canadian society would be based on those considerations, that is, our qualifications and experience. That was the implied contract we had with Canada before we even decided to immigrate to Canada.

Unfortunately, on our arrival Canadian social policy pigeonholed us into ethnic ghettos. Suddenly we are no more individuals; we are members of a group and our livelihood, our employment opportunities, our employment prospects are tied up with our ethnicity and activities of power brokers within ethnic communities. Employment equity legalizes such behaviour; it takes away our individual rights and replaces them with group rights.

In that process we have become a labelling society. That label is legalized through employment equity. Consequently, employment equity is tearing us apart because it is based on the faulty foundation of who we are rather than what we are. In fact, our racial origin should matter less than our ability to make a productive contribution to Canadian society.

Visible minorities are not homogeneous groups; they are heterogeneous. Within the black community or within the South Asian community there are numerous groups, and they are again subdivided by their religion. You have Hindus, Sikhs, Muslims, Christians and all of them. Now, each group is trying to establish its own identity and seek a position, those who are in public life know the delegations that you receive from these people. Hence, lumping such a heterogeneous community into one single group of a minority for the purpose of employment equity and attempting to give them some kind of preferential treatment is most dangerous and divisive.

As it is, employment opportunities for minorities are very limited. Hence, there is intense and sometimes very vicious competition among those groups. By choosing individuals purely on the basis of their membership in a group and giving them a position in such a charged atmosphere amounts to adding fuel to fire.

Employment equity leads to quotas. The quota requirement is not explicit in the legislation but it is implicit in terms of timetables, composition of population and, more importantly, it shows its ugly head at the stage of implementation, and I'll give an example. I give an example in my submission, but I'll state one.

When a minority person gets a senior position in the government as a result of employment equity, often there is pressure on that individual to hire more people from his or her racial group. Those of us who serve the government are aware of that. Although there is no quota stated in the legislation as such, each ethnic group will monitor the employment practices of its own members and will make a demand on the employers. The outcome is an implicit quota.

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The underlying philosophy of employment equity is that it must reflect the composition of the population. Now, to achieve that we play a numbers game, and again I have given that in my submission. By playing a numbers game, we are restricting the aspirations, ambitions and employment opportunity of young people.

In that case, what is going to happen? That these qualified young people have to go in search of towns and cities in Ontario where the percentage of minority population in employment is less, then what kind of society are we creating? What is wrong if there are 70% of doctors who are from a minority community working at Toronto General Hospital, or even in Thunder Bay or other places in Ontario where the population of minorities is very small? What's wrong with that?

The concept of employment equity also focuses on reversing historical discrimination, and you must have read or at least had some presentations on that. Does it do that? One has to ask that question.

In its present form, it does not give a priority to those who suffered most due to past discrimination. It only recognizes membership in the target group and gives employment preferences, even if that individual was never discriminated in the past, yet that individual can get employment through employment equity.

I know one of the geologists from the government of Ontario who felt he was discriminated and he has lost the job for 12 years. How is employment equity going to help him by promoting someone from his own community as an assistant deputy minister or deputy minister?

If the true objective of employment equity is to reverse historical discrimination, then the people who merit some consideration are those engineers who are driving taxis, architects working as draughtsmen, pharmacists working as shippers or other qualified men and women who are working as security guards. We must rescue those people who are trapped because of discrimination resulting from denial of access to trades and professions. These people come to Canada with the highest qualifications, or high qualification skills. They would be the ideal candidates for such consideration.

Employment equity is partly based on the premise that to treat people equally, we must give them different treatment at different times. Treating them differently than the rest of society is itself a major cause of their exclusion from the mainstream of Canadian society and could sow the seeds of discontent and conflict.

Employment equity stigmatizes well-qualified minorities. He or she never knows whether employment or promotion was based on qualification or quota.

Most of the time, employment equity is used by vocal or upwardly mobile extroverts in the minority communities to fast-track their own careers. It mostly helps those who are in employment and not those who are seeking employment.

It does not place social obligations on those who benefit from membership in racial groups. There is nothing in the legislation which says that if you get a job because of employment equity, you must in return spend some time in your own community doing some community work. There is no obligation on that.

It does not work as a role model, because minority community people do not see minorities who get the job because of the government programs as a role model.

The privileges are also extended to longer times, from generation to generation. If you look at India and the United States, it's not only for one generation but it's long generations.

There is no historical evidence either in the United Kingdom or the United States or in India to suggest that this has helped anyone.

It contradicts the Human Rights Code. It's very difficult for me, as a former human rights commissioner both of Canada and Ontario, to say that on one hand, "Thou shalt not discriminate people on the basis of their race, colour or creed," and on the other hand, through employment equity you are saying to us, "You must discriminate them in a more favourable way."

Now, this also has created a new industry itself. A new crop of consultants has come up over the last years, and they have a vested interest in promoting employment equity.

These are the grounds on which I oppose employment equity and, by implication, support Bill 8.

In conclusion, I wish to say, with all the sincerity at my command, that it has been painfully difficult for me to oppose this law, which many minorities have supported and many of my former colleagues in the Human Rights Commission have supported. I hope you and others outside this room will understand the force of my convictions, my emotions, my feelings and my sentiment. They are real and they are potent. It would have been intellectually dishonest of me if I had not been straightforward with you today.

Furthermore, I would have failed in my duty as a concerned citizen if I did not reflect and express the depth of dissatisfaction displayed by a disenchanted group of ordinary men and women from minority communities. It is one thing to stay in one's comfort zone, looking at the problems of minority communities as an ideological rallying point, and another to go down in the trenches with them, experience what they experience, and see the

whole thing from a victim's point of view with the complexity of problems surrounding them. Taking them on the path of employment equity is like walking in a twilight zone. We would lose all our way.

Finally, let me point out I have stated my view with equity of my mind and my soul. I did this with honesty and candour.

I have no doubt about the integrity and commitment of the previous government in the race relations inherent in employment equity. Hence my views are not intended to denounce their past intentions. Rather, my views are rooted in pinpointing pitfalls and to inspire a future course of action to provide a rightful place for minorities in this country equally.

I'm not critical of other mainstream society members who support employment equity. I appreciate their concern and interest in minorities. If they had experienced our feelings, our hurts, perhaps they would have come to the same conclusion as I have: Our society is riddled with inequities and needs more comprehensive solutions than the token gesture of employment equity.

I also understand the feelings of minorities who support employment equity. There is a growing accumulation of grievance, of disappointment, of denied opportunities. Hence, they see employment equity as a straw to which they would like to hold on to take them to their desired destination. Regrettably, it's a mirage that they are running after.

Academics have tried to support the law through statistics and studies, but in this area such statistical abstractions are a poor guide to real human experiences. I have spent countless hours talking to people in India, people in the United States and people in Canada who are affected by this. I have listened to their stories, their hopes, their determination, their pain, their frustration and their despair. There's a contradiction between the image projected in such studies and the reality of their experiences.

Finally, our young generation, well equipped with education and skills, stands at the door of breathtaking opportunity for moving Canada forward in all directions in all areas. Employment equity limits the opportunity on their horizon. What they really need is a genuine equality of opportunity backed by effective enforcement of the Human Rights Code based on zero tolerance for discrimination by society at large.

Thank you very much for listening to me so patiently.

The Chair: Thank you, sir. We have about a minute each for questions. This is our last presenter before lunch. I'm prepared to be a little flexible if anybody wants—

Mrs McLeod: Dr Ubale, I would never presume to speak for Judge Abella, who first coined the term "employment equity," she's well able to speak for herself, but I think if she were here she might feel as though the focus of your remarks on employment equity are more on what employment equity has become in terms of a group-representative focus as opposed to what she perhaps originally intended it to be, which was to focus on individual opportunities and equal opportunities in a workplace.

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I suspect she might also have said that if we were to treat everybody in exactly the same way, we would not be providing real equality. For example, I would not need, for equal opportunity in the workplace, wheelchair access. Obviously, somebody with a physical disability would need that, so we have to treat that individual differently in order to provide equal opportunity.

I was struck at the beginning of your presentation that your emphasis is on dealing with the problems of discrimination, that do exist, through the Human Rights Code and through a legal judicial process.

But I wonder if you would not feel—if we can set aside for a moment the debate about numerical targets, or quotas by any other name, which focuses on end goals and numbers that you feel are divisive—that we need some very concerted commitment to dealing with systemic barriers, without a judicial approach that is complaint-driven.

I guess my question is, is the human rights approach enough to deal with what we know is much more prevalent systemic discrimination that's often seen to be just the way things are?

Dr Ubale: That is what I, as I said, for the last 20 years, have advocated all along, that there is a systemic discrimination that exists in our society, and employment equity is not the route to go through to deal with that, because systemic discrimination has to be tackled much more vigorously. What we have not been doing, unfortunately, is concentrating on the whole structure of the Human Rights Commission, because the commission, which we created in 1962, is no more applicable. I have said before these committees a number of times, it is not applicable in the 1990's, because a case-by-case approach is not going to help us. We need a major partner. There has to be commitment not only by the government, by the society as a whole.

When I was human rights commissioner, what we were doing is not to remain merely as an operating officer of the Human Rights Commission and just deal with the cases as they come. What we were trying to do is to go out in the community, talk to other agencies, help them, assist them. As I said, walking on the streets in small towns in Ontario, I must say, with all sincerity, that there is a tremendous goodwill. You can see in Ontario they wanted to do something in the area of promoting equality. What we need to do is we need to tap into it, and we have not concentrated our efforts to get all those agencies, out of all sectors. No government alone can do that. It has to be business, it has to be labour, it has to be media; all sectors of our society must work to where there has to be commitment, and that commitment is lacking in a sense, and this is why then we try to either go through one route like employment equity or a number of other measures that we may do it. But these are very short-lived ones.

The Chair: Okay, Mr Ubale. We've set the standard with Mrs McLeod there, so Mr Bisson, you have about three and a half minutes.

Mr Bisson: Well, I just want to say I strongly disagree with your views, wholeheartedly, and I will just say a couple of things, and try to be as polite as I can.

I come from a line, a long generation of people who find themselves in minority. Je suis Français. Mes ancêtres viennent de France. Ça fait depuis les années 1700 qu'on est ici au Canada.

I just want to say, if it hadn't have been for the innovative thinking on the part of a lot of people who were my forefathers within my community who identified themselves as francophones and who strove and pushed their provincial and federal governments—first of all, not a federal government but Upper Canada and Lower Canada, eventually until Confederation, to where we finally gained rights in the BNA Act, enshrined those and made darned sure that we were able to be recognized as a people within this country; second of all, all of the changes that were done through provincial legislation over the years, leading up to what finally was then the Charter of Rights and Freedoms—I would say that we would have been assimilated into the Canadian culture probably about 100 years ago.

I strongly believe that, quite frankly, your approach is in a Utopian state possible, but I don't think we live in a Utopian state. But I respect your view, because in a democratic society we have the right to have differences of opinions and also differences of approach and I respect your views and encourage you in your work as you go forward trying to represent your community as best you can.

I would only like to say the following things: I think that your comments here today have allowed the Conservative members to salivate to great extremes. I'm sure that we are going to have great media clips following your presentation as to the reasons why we should not move forward with employment equity. I thank you for advancing the cause of people in this province.

Dr Ubale: I don't want to be drawn into this political arena, but as I said right from the beginning, my views predate employment equity. I wrote a book in 1991, and employment equity was just brought recently. Again, if you look at my speeches and all that for the last 20 years, I have spoken about it. Therefore, I have not come here to advance any cause. This is my firm belief and I came here to state that.

Mr Bisson: I accept that.

Dr Ubale: The difference between, for example, people who come from British origin or other ethnic origins, from European countries, and people like us is that we are visible. My children were born and brought up here and they're still considered as immigrants. Those are educated, and therefore I'm concerned—

Mr Bisson: The wonderful part of our society is that we have the right to have different approaches. I respect that.

Dr Ubale: My daughter, who did her PhD recently—I don't want her to be seen as an immigrant. She is a Canadian. She was brought up and educated here and therefore she must have all the equal opportunity to compete. If we can compete in universities, why can we

not compete in the marketplace? Why do we need assistance from any program.

The Chair: The government party, Mr Clement.

Mr Tony Clement: I know we've got some other questioners as well, so I'll be as brief as I can.

What I was struck with in your presentation, Mr Ubale, was the view that you've expressed, which is essentially that employment equity has become the status quo ideology, if you will, in North America on some of these issues. You make mention about the effects of that in the United States and in India, that the status quo has not worked; in fact, it's performed very poorly for those it purports to help. Can you elaborate on that a bit?

Dr Ubale: Yes, India has employment equity. A form of employment equity started 40 years ago. It was enshrined in the Constitution. Again, once you start giving preferential treatment to certain groups, there are groups within the groups. If there is a heterogeneous community, people who are politically very active get organized and try to get the benefit to their own community at the cost of other communities.

This has happened also in the United States. As I said, you can look at what is happening with the Afro-Americans. There are a very small minority of Afro-Americans who get the benefit of employment equity, affirmative action programs. They don't stay in the neighbourhoods. They move away from the neighbourhoods and join the middle class. As a result, there are no role models there. Nothing is happening. As a result, if you look at what happened at last month's Million Man March, it's clearly demonstrated by a number of thoughtful people from the United States that the conditions have not improved an iota as such.

So what is happening within that framework is that you get very few people benefiting from that, and it gives an impression—and that's why I call it a mirage, an illusion—that it is benefiting society at large, but it is not benefiting society at large because a large section of the population still remains where it was, or sometimes has deteriorated to a considerable extent. That has happened in India after 40 years. There's a large number of the population who even more poor today than they were 30, 40 years ago, and that still happened to the United States.

The Chair: Mr Young, time for a quick question.

Mr Young: Dr Ubale, thank you very much for coming. I appreciate very much your frank appraisal of the situation. I share your concern about a labelling society. My concern is how far it's going to go. We hear we've got to have more data and more data and more data. I'm concerned about the quality of data. We know there are very many people who will not self-identify—people with disabilities. They don't want their company to get credit for hiring them. They don't want their company to know they have a disability. We know that, for instance, the city of Toronto has expanded to include homosexuals. There are lots of homosexuals who don't want anybody to know they're homosexuals. Good for them if they want to keep it private. Where are we going with all this compartmentalizing people and collecting data on human beings? What kind of society is this leading to?

Dr Ubale: That's what I said. My objection is to collecting the data, my objection is to ghettoizing people on the basis of their ethnicity and other considerations. I would like people to be treated as people and deal with it. As I said, my own experience has been that once you allow people to mingle with each other and once we begin to know each other, then these other considerations you raise—your sex—become much more secondary, because people fear the unknown and therefore we have all these stereotypes. But once you start working together, those stereotypes get—

Mr Young: That's the kind of society I want to live in.

The Chair: Thank you very much, Dr Ubale. I appreciate your attendance here this morning and your involvement in our process. The committee stands at recess until 1:30 this afternoon.

The committee recessed from 1150 to 1336.

ONTARIO CHAMBER OF COMMERCE

The Chair: We will begin, in the interest of time and out of respect for those who are already here. Our first guests this afternoon are from the Ontario Chamber of Commerce, Carla Zabek and Ian Cunningham. Welcome. The floor is yours.

Ms Carla Zabek: Good afternoon. My name is Carla Zabek and I'm a member of the employer-employee relations committee for the Ontario Chamber of Commerce. With me today is Ian Cunningham, who is the director of policy for the Ontario Chamber of Commerce.

As background for you, the Ontario Chamber of Commerce is a business organization representing over 65,000 employers in Ontario. Our members include both large and small enterprises covering all sectors of the economy.

On behalf of our member agencies, we appreciate the opportunity to meet with the committee today to address Bill 8, the government's proposed legislation to repeal the Employment Equity Act, 1993.

We would like to begin by stating that the chamber is in complete support of Bill 8 and encourages the government to continue the process in making Bill 8, ultimately, law.

Perhaps the most significant reason for repealing the Employment Equity Act is that the act effectively removed the merit principle in hiring. Nowhere in the act was the employer's fundamental right to hire the best and most qualified candidate guaranteed. Indeed, the Employment Equity Act has been interpreted as prohibiting employers from hiring the best- qualified candidate and instead mandating that they hire employees to meet a quota.

In fact, the quota requirements contained in the Employment Equity Act impede the goal of equal opportunity for all employees. The reason for this is that certain groups are inevitably preferred over others with little consideration of assessment of qualifications. The goal should be that individuals are hired solely on their qualifications without consideration of factors which are not related to their ability to perform the duties and the responsibilities of the position in question. That is what constitutes equal opportunity.

Another important reason for repealing the Employment Equity Act is that it is very costly both for employers and for the government, and this is significant given that the act fails to address the root of the problem and the root of the problem is discrimination. It would be more beneficial to use the funds to create additional jobs and to improve the systems which are already in place, and this will be addressed in more detail shortly.

In these recessionary times, it is vital that businesses remain competitive. Therefore, government policies and initiatives must assist businesses in succeeding through these difficult times. It is the chamber's submission that continuation of the existence of the Employment Equity Act would hinder businesses' ability to stay competitive, especially for the smaller businesses, and that in turn would negatively affect the economy. That is not to anyone's benefit.

That being said, we wish to stress that the chamber unequivocally supports the concept of equal opportunity for all employees. Ridding society of barriers which prevent anyone from advancing in employment because of gender, ethnicity, or any other factor besides merit or qualification, is a goal we firmly believe in.

There's no question that such barriers constitute discrimination. However, it is the chamber's submission that the Employment Equity Act was not the appropriate legislative forum to address discrimination in the workplace, and, as I mentioned earlier, it fails to do so.

Ontario already has legislation in place, the Ontario Human Rights Code, which specifically addresses discrimination, including discrimination in the workplace. As a matter of fact, approximately 70% of complaints filed with the Ontario Human Rights Commission concern discrimination in employment. It does not make sense that there be another government bureaucracy created to address discrimination in employment when there's already one in existence.

We acknowledge that the Ontario Human Rights Commission presently has a large backlog and that its system is not as effective as it could be. Therefore, what does make sense is that the government take steps to reform the Human Rights Commission so that its effectiveness and efficiency are improved and its backlog decreased. The present government has already vowed to do this, and the chamber is in complete agreement.

As mentioned, barriers in employment constitute discrimination. The root of discrimination is societal attitudes. The Employment Equity Act does not address the attitudes at the root of discrimination. The chamber strongly believes that the only answer to changing attitudes and opinions is education. Legislation is not the answer to ending the inequities in the workplace. Education is the strongest empowering tool, not government intervention.

To that end, the chamber supports the government's decision to implement an equal opportunity plan. We understand that one of the main components of the plan includes education and training on equal opportunity.

We would like to briefly address the legislation itself. Subsection 1(5) provides that "every person in possession of information collected from employees exclusively for

the purpose of complying with part III of the Employment Equity Act, 1993, shall destroy the information as soon as reasonably possible after this act comes into force."

There are some employers who had been pursuing affirmative action or diversity management programs encompassing employment-equity-type initiatives even before the Employment Equity Act was passed. Other employers were involved in the federal contractor program. You can well imagine the costs and the resources expended by these employers in collecting the necessary information. These employers would likely wish to continue using the survey information in connection with ongoing efforts to remove barriers to equal opportunity or diversity management programs or as part of the federal contractor program.

It is unclear if the legislation as it is currently drafted would protect those employers. The chamber would not be opposed if subsection 1(5) were amended or even if it were removed in order that employers would be able to utilize the information, which would be very useful in employers' legitimate employment-equity-related activities.

In conclusion, we wish to again state that although the chamber is in complete agreement with the principles of employment equity, legislation is not the proper vehicle for achieving employment equity. We therefore unequivocally support the government in its decision to repeal the Employment Equity Act, 1993, and to introduce an equal opportunity plan which we believe will result in fairness and equality of opportunity in the workplace.

Thank you for giving us the opportunity to share our thoughts with you today. We would be happy to take any questions that you may have.

The Vice-Chair (Mr Bart Maves): Thank you very much. By the way, I'm Bart Maves, the Vice-Chair. I have to fill in for Jack. It's my first time in the chair.

We're going to start the questioning with the NDP members.

Ms Churley: My question has to do with your statement about the Human Rights Commission. As you know, that's set up as a very adversarial, after-the-fact body. Once a problem is there, people have to go before it in an individual, adversarial situation.

Don't you think the fact that you yourself stated that about 70% of the cases deal with employment-related issues shows that there is a systemic problem, and that trying to deal with those kinds of problems on a case-by-case basis in an adversarial situation—putting aside whether you agree with legislation—is not the answer to this problem? You agree that there is a problem.

Ms Zabek: We definitely agree that there is a problem. That is why we stated that we unequivocally support education, because we think the root of the discriminatory problems in society are societal attitudes and the only way to resolve those problems is through education. Therefore, we fully support the government in coming up with an equal opportunity plan, a major component of which is education. I think that would solve a lot of the problem.

Ms Frances Lankin (Beaches-Woodbine): I was very pleased to see your comments on keeping the data. I think that is incredibly important, irrespective of my concerns about the direction of the bill. Many employers will require the data that has been collected and they shouldn't be forced to destroy it.

With respect to your concern about quotas and merit, an interesting suggestion was made to the committee the other day that if those were the main concerns people had, particularly representatives of business, perhaps there should be two amendments to the existing legislation, as opposed to bringing forward a new bill. One would be to have an amendment that states unequivocally that there are no quotas and to correct that section of the legislation from that perspective. The second would be to state unequivocally that employers have the absolute right to hire on the basis of merit. Would that satisfy your concerns?

Ms Zabek: To take your question a little further, does that then mean that any of the legislative requirements under the act would no longer be required?

Ms Lankin: Certainly there would be a legislative requirement for a program to be in place, which you indicate you think is important, that would recognize that there are barriers and seek to overcome those and that you collect data so you can analyse if you're making progress. But it would be to make it very clear that there are no quotas and that merit is the right of the employer.

Mr Ian Cunningham: We would prefer the voluntary approach, but would undertake as a business association to encourage what we believe is a natural evolution that's taking place in business to experience the benefits of an enriched workforce and the benefits of enhanced decision-making through a culturally diverse workforce. We think that can best be achieved through our own voluntary efforts, and we would undertake to accelerate what we believe is an ongoing, evolutionary process.

As stated in our brief, many businesses have that experience, enjoy that experience and want to continue it. We would hope to share their experience with our members and encourage other business associations to do likewise, but in a voluntary way.

1350

Mr Young: With all due respect to my colleague opposite, there was ample opportunity to include the statements, "There are no quotas," and, "The employer should have the right to hire on merit." There was ample opportunity in 1992, and for whatever reason, they chose not to include it in the legislation.

What I wanted to ask you was, how can we get the message out to business that a diverse workplace is good business, is smart business? Because that's what we want to do.

Mr Cunningham: We can undertake to do that and, as I mentioned just a second ago, encourage other business associations to do the same. The Ontario Chamber of Commerce has a network of some 200 community organizations and we would undertake to deliver the message of enriched decision-making, the benefits of an enriched workforce through our communication vehicles,

and hopefully other associations would share that initiative.

Mr Young: Do you think other groups like the Canadian Manufacturers' Association and the CFIB would help us also, would be interested in participating? Can you speak for them?

Mr Cunningham: I don't want to speak for them.

Mr Young: Any more ideas?

Ms Zabek: My understanding is that they would also be willing to assist in the education process. Again, we want to stress that we think that education is key here.

Mr Tony Clement: I just wanted to talk specifically about subsection 1(5), the information section that you referred to. Certainly the minister has made it very clear that, for instance, information collected as part of a federal contractors' program is obviously information that is not collected exclusively for the purposes of part III of Bill 79 and would be able to be retained. If you had a particular questionnaire which had some sections which were common to both federal and provincial requirements, those would be able to be kept, but those that were asked specifically in compliance with or the furtherance of Bill 79, it would be those sections of the questionnaire and the data that were collected under those sections that we were particularly concerned about. With that explanation in mind, does that go at least some way to alleviating your concerns in this area?

Ms Zabek: It goes a little way to alleviating our concern. But our other concern is with respect to employers who have solely, voluntarily undertaken employment equity initiatives on their own prior to the Employment Equity Act coming into place. We really don't see that there is much difference between a federal contractors' program and employer-initiated employment equity initiatives. We realize that one is federally mandated, but for the purposes of provincial legislation there really shouldn't be that much of a difference between whether it's a requirement under the federal contractors' program or whether it's something that the employers themselves had decided to do. Therefore, we want to make sure that those employers are protected.

Mr Tony Clement: You mean, programs that were instituted prior to Bill 79?

Ms Zabek: That's correct.

Mr Tony Clement: They are excluded as well.

Ms Zabek: We believe that they would be excluded under the language of subsection 1(5) and we would like them to be protected so that they could keep that information.

The Vice-Chair: Thank you. Unfortunately, the time is exhausted for the government side and we now turn to the opposition. Mrs Pupatello, you're first.

Mrs Sandra Pupatello (Windsor-Sandwich): Of the 65,000 members you have, what percentage would you say have their own employment equity policies?

Ms Zabek: Ian?

Mr Cunningham: I don't know; I couldn't guess.

Mrs Pupatello: Were any of them consulted in terms of the submission today, specifically?

Mr Cunningham: We have an employer-employee relations committee that is fairly broadly represented. In that regard, yes, they were, but I wouldn't want you to think that we surveyed 65,000 business organizations.

Mrs Pupatello: No, just specifically the ones that already have policies in place, because there are many of your members that did have their own policies already in place well before the bill I mean.

Mr Cunningham: I believe so, but I can't respond with a specific number or even a guess that I'd be comfortable with.

Mrs McLeod: Can I just assume, following up Mr Clement's question, that if an employer has gathered information since Bill 79 came in and would like to voluntarily continue with employment equity, and would like to be able to keep the information they've gathered for that purpose—do you see any downside at all to them being able to keep the information?

Ms Zabek: I don't think there would be any downside. If it's a legitimate employment equity initiative, and obviously it would have been if they were complying with Bill 79, and they want to continue with that voluntarily, there wouldn't be a downside.

The Vice-Chair: Mr Sergio, we have time for a quick one.

Mr Sergio: Ms Zabek, you said before that the commission is ineffective and inefficient. Mr Cunningham, you said that a voluntary equity plan should be taking care of the concerns of people being discriminated against and stuff like that. How would you address those concerns with a very weak and inefficient commission and no legislation?

Ms Zabek: I'm sorry; I didn't understand your question.

Mr Sergio: All right. We will have no legislation guiding the equity laws within the workplace. So we have a very inefficient and very weak commission and we have a voluntary plan here, although we haven't seen any plan from the government side. Without any legislation, with a voluntary plan and an inefficient commission, how would you address the concerns of people out there: women, minorities, handicapped people?

Ms Zabek: Again, I keep coming back to the same thing, but I think education is the key, education with respect to societal attitudes as well as education to groups that may be disadvantaged. They should obtain education which would enable them to obtain a certain level so that they would be on an equal playing field with all other people.

Mr Sergio: So you would strictly, by education—

The Vice-Chair: Unfortunately, we've run out of time, and I'm trying to keep with the strict standards on time that the Chairman has set. I'd like to thank the members from the chamber for coming and giving their presentation.

LONDON EMPLOYMENT EQUITY NETWORK

The Vice-Chair: Our next presenter will be the London Employment Equity Network, Vicki Mayer and Avril Rinn, Welcome to the committee. You have 20

minutes to make your presentation. You can use that as you see fit. Several presenters have left some time at the end to take questions; you may want to do that. Go ahead.

Ms Vicki Mayer: Okay, terrific. As introduced, my name is Vicki Mayer and I'm representing the London Employment Equity Network. I'd like to start off by thanking you for giving me the opportunity to speak today and to state most emphatically that I am here to speak against Bill 8.

LEEN, which I am representing, is an organization which promotes employment equity in the London area. We number approximately 120 and have representatives in that group from various social service agencies, business, labour and human resource personnel.

LEEN was formed in 1988. We began as a small group of mainly social service agents who were getting together in support of the federal employment equity initiative. We were also hopeful at that point that provincial legislation would follow. This hope was supported by the 1990 throne speech. We participated in the discussions of Bill 79, celebrated its proclamation and are already mourning its demise.

Our goals for LEEN are to provide a forum for networking and information sharing; to keep informed of the resources in the field of employment equity; to generate resources; and to provide information and support to employers and agents in the London area. We've been very active during the last seven years and we expect to continue to be active in the future.

I myself come from the social service area. I've spent 22 years working with various special-needs groups. I've worked in both educational and workshop areas, in environments with persons with disabilities. I've had the opportunity to be involved with most groups with disabilities, both physical and intellectual. I'm a sign language interpreter and I'm presently executive director of a program whose mandate is to facilitate employment opportunities for persons with either visual or learning disabilities.

I sit on various committees and boards in the London area, and although I'm here today to talk on behalf of LEEN and my goal is to represent the four target groups, I'm going to be talking mainly from the position that I feel most comfortable with, and that's representing the disability groups and the impact Bill 8 is going to have on the disability groups.

The total population of metropolitan London is just over 400,000. Of that group, depending on which survey you're looking at, approximately 60,000 people have identified themselves as having some sort of disability. Of that 60,000, about half of that group are in the employable age range.

1400

National statistics say that twice as many persons with disabilities as able-bodied individuals are likely to be unemployed. I know for a fact that within that group, in separate divisions of that group, the statistics are much higher. There was a survey in 1993 in southwestern Ontario that indicated that job-seeking individuals with

visual impairments had approximately a 75% unemployment rate. If you only looked at the women in that group, it would be closer to 80%.

Today, what I'd like to do is outline some of the barriers to employment for persons with disabilities and hopefully stress to you that without legislation those barriers are not likely to be overcome.

I'm going to start with the obvious one: stereotypes and misunderstandings about the abilities and the disabilities of persons with disabilities. Part of my role is often providing sensitivity training to workshops and employment areas that are bringing in persons with disabilities to hire. When I stand up and I talk about some of the common myths, the misconceptions, when I indicate that a visually impaired or a blind person is not necessarily hard of hearing and that even a person who is deaf does not communicate better if you shout at them or you talk in an exaggerated method, I'm often greeted by giggles but also guilty glances around. We all do that.

Many of us temporarily able-bodied people have a difficult time seeing beyond a disability. With almost every physical disability we assume an intellectual disability, and if an intellectual disability has been identified, we generalize its impact and work under the misconception that this individual is childlike in every way. Part of my theory is that it's fear of what that disabling condition would mean to us, and all we can see is a series of "can'ts." The "can'ts" are easy to see, and what we need is a system that encourages us to see "cans."

Other barriers? Systems problems: job requirements that do not necessarily measure the ability to fulfil the functions of the job and lack the flexibility within certain job functions. There are a great many employers who when recruiting automatically impose a minimum grade 12 or even a university or a college diploma as a condition of eligibility for those positions. As the education system has traditionally failed to adequately meet the needs of persons with disabilities, this is a requirement that effectively precludes most of the disabled community from applying for those jobs.

Difficulties surrounding essential job accommodations are also becoming a barrier. The issues in this country for the most part—we've gone a long way to make great strides in understanding the need to accommodate for individuals who have mobility impairments. Building codes have enlightened the community to the need for accessible entrances to washrooms, although to be honest, if these are done to code most of them are ineffective. In London we have a wonderful accessible washroom at the bottom of a very narrow, deep staircase in one of our buildings that touts its accessibility. There are ramps that are built where you would need either an extremely highpowered motor on your wheelchair or a very, very long takeoff position in order to get at them. There are wonderful accessible washrooms that are behind two closed doors that are absolutely inaccessible in lots of places. Even if this is done well, accommodation does not end at that point in time.

Technical accommodations—specialized technical equipment—are much more difficult to obtain. We had

one of our alumni who had a placement with a crown corporation, and at the end of that placement she was offered a position. She had been working with a computer that was accessorized with both voice and large print, and that equipment had been provided by our agency. At the end of that process, obviously we needed it back for training. The crown corporation, though, assured us that it had money for accommodation in case a person with a disability was hired for that position. However, when it came to the logistics of that process, that \$10,000 was set aside to enlarge bathrooms or to build ramps. Convincing the corporation that access technology was accommodation for persons with a disability was next to impossible and took at least six months. At one point in time it was suggested that we find an accommodating vendor who would just bill them for a larger washroom door and provide us with the technical equipment that was necessary. Obviously, this is an area where enlightenment has to happen.

Another barrier is the inaccessibility of work site areas. Many, many businesses, particularly in the London area, are moving to the outskirts of London to set up their factories. Most of our community is dependent on public transit. Already, public transit to these areas is limited; it's going to get worse in the light of cutbacks. When we look at the parallel or paratransit system, the kinds of changes that they're talking about making in those systems will be absolutely devastating for this community in terms of accessing job opportunities.

The problems, I think, are obvious. The solutions appear a long way off. With employment equity legislation, there was a glimmer of hope for this community. That glimmer is dwindling now. I'm going to turn it over to my colleague Avril Rinn, who is a member of the LEEN steering committee and a co-worker of mine and also an individual who can speak from personal experience in terms of living with a disability.

Ms Avril Rinn: My name is Avril Rinn. There's nothing remarkable about me. I think of myself as an average Canadian. Incidentally, I have a disability; I'm legally blind. All that means is that I have less than 10% functional vision. I can do almost everything everybody else does, but I do some things differently.

I need to say to you today that when I first heard talk about employment equity legislation I was in university, and I didn't agree with that kind of legislation. I was really anxious to prove myself. I wanted to be judged on the merits of who I was, and I didn't want anything to do with being hired because I had a disability. After four years of working with people with disabilities and becoming friends with a lot more people with disabilities and being part of the workforce, I now recognize a need for that kind of legislation.

The misconceptions that are out there about us, people with all kinds of different disabilities, are appalling. I'd just like to share a couple of my own personal experiences with you, taking into account that my visual impairment is really quite mild compared with that of a totally blind person.

My job is computer instructor, and I'm often asked by people how I could possibly have learned to type if I

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couldn't see the computer keys. I must have needed a Braille keyboard, people tell me. There are two fundamental misconceptions happening there. The first one is that all people with visual impairments read Braille. That's not true, only about 1% of blind and visually impaired people read Braille. The second one is that I would need to know a different way of learning to type just because I couldn't see as well as everyone else. Obviously I learned the same way everybody else does: I remember where the keys are. There's nothing different about that.

Another experience I once had was on my first day of a job. I was shown to the washroom by my employer, and as she was taking me to the door to show me where it was she said to me, "Now, you do realize, don't you, that ladies' washrooms have pictorial symbols wearing skirts, and the men's washrooms have the figures who aren't wearing skirts." Obviously the problem there is that she believed my intelligence was in question.

That happens so often. You're different than other people, physically or sensorially, so people assume that you lack even the most basic of intelligence, that you can't think as well as they do.

The legislation that is going to replace employment equity, Bill 8 I guess, talks about fair hiring practices and merit-based employment. But if I'm not allowed to show what my merits are, it's not very fair to not want to hire me just because I'm disabled. Employment equity wouldn't have forced an employer to hire me if I wasn't qualified to do the job, but what it might have done is force the employer to at least consider me, to look at the good things about me, the merits, the positive qualities I had and forget about my disability.

I know that employment equity as we know it now is on the way out, and I'm really sorry for that because a lot of the hopes and dreams of people with disabilities are also going to be destroyed. Thank you for allowing me to say what I have to say. I know that Vicki has some summary statements.

Ms Mayer: Recently, I have been reviewing the federal government's annual employment equity report, and there has been—limited—but there has been progress since 1986, particularly among women and visible minorities. The statistical changes for first nations individuals and persons with disabilities, not surprisingly, hasn't changed. But I'm really encouraged by the federal government's introduction of Bill C-64 that strengthens that legislation and supports numerical goals—not quotas, but numerical goals. I find it ironic that while our federal government, that's facing the same social and economic climate as we are in Ontario, is increasing their commitment to ensure fair and equitable hiring practice, this government in Ontario is effectively taking a giant leap backwards and dismissing many years of public consultation and collaboration, seemingly without guilt.

1410

I mentioned before that part of my role is that of educator and motivator, of trying to instil an "I can" attitude in my clients. In light of years of failure, this often is a difficult and challenging task. The language of this government in Ontario makes it even more so.

Repeated assurances that the Ontario government will not adversely affect the elderly and the disabled, in my mind, effectively links them to a group who has served their purpose to society and will be taken care of by the government as they await death. A young disabled individual has a great deal more to offer to his or her community than that, and deserves the right to experience the good feeling that comes from being self-sufficient and useful, and I think that's been eliminated.

One last issue that I know has been addressed many times over these last few days is the issue of destroying all the data collected in response to the provincial employment equity legislation. To effectively eliminate the results of conscientious, careful work and resources that have been invested in constructing databases that can be used as benchmarks to monitor progress by those employers who are still now committed to hiring for diversity is nothing short of mean-spirited. If you must, as I'm sure you will, decide to repeal the employment equity legislation, please allow those employers who choose to forge ahead to forge ahead. Many of them may not have the resources to go back and collect that database that is really important, and those of us who are awaiting the implementation process will have to wait all that much longer or maybe forever.

I thank you again for your time.

The Vice-Chair: Thank you, Vicki. Thank you, Avril. We've got time for one minute from each side, starting with Mr Young.

Mr Young: Thank you very much for an excellent presentation, obviously heartfelt, and we hear you. I would like to assure you, Avril, that employment equity is not on its way out. One intrusive, cumbersome and expensive law is on its way out, but there are other ways to make people be fair to one another.

I did want to ask you both, do you think that women as a group and visible minorities as a group, require the same sort of protection against barriers that the disabled do?

Ms Mayer: The progress that those groups have made obviously has been much more significant than that of first nations and persons with disabilities, so perhaps it needs to be done on an escalating scale looking at the greatest needs. As I stated, from my perspective, the greatest need is in assisting persons with disabilities. But I do not mean to state that there is still not a need for a legislative process to help ensure that women and visible minorities get a fair shake in the employment situation.

The Vice-Chair: I will have to turn to another member; Ms McLeod.

Mrs McLeod: I have a belief that some form of legislation, employment equity, puts as much compulsion on the government as it does on the employers and is one of the reasons why it's needed. So let me ask you a question. You can choose to respond in any way you wish or not respond. You've been very effective in giving us some specific examples of barriers that still exist for the disabled in the workplace. I would think that if we were to look at the nature of those barriers and put a cost on it, it would be a fairly significant cost and that if there was legislation left in place, government would have to respond if they were enforcing their own legislation by

providing dollars to deal with the barriers. Do you think that's one of the reasons why legislation is being withdrawn? I said you could choose not to respond.

Ms Mayer: Yes, I would like to respond, because that's one of the myths, though, too in terms of accommodation. Accommodation is not as expensive as most people believe it is. It can be done and, yes, governments have a responsibility to assist with that accommodation but so does the employment community; and it's not that expensive.

The Vice-Chair: Thank you very much for your presentation. We've come to the end of your 20 minutes. Oh, I'm sorry. Quickly, we have one minute left for Ms Lankin.

Ms Lankin: You're new in the chair there, sir. I heard both of you address the issues of stereotypes and misconceptions, and I'm glad you did, particularly on the heels of Ms Zabek. We didn't get a chance to respond. Her very last comment was that education was required, and also education for disadvantaged groups so that they could be brought up to a level where they would have an even playing field and be able to compete. I was frankly shocked by that statement because it suggests that a whole lot of people in employment equity targeted groups are somehow lacking in the ability or the merit to compete for those jobs.

It's one of the reasons why I think this issue of legislation versus evolutionary processes is so important, and whether or not you can legislate attitudes, you can legislate behaviours. I was wondering if you could address that issue of the evolutionary-voluntary process versus the need for some legislated effort to remove barriers.

Ms Rinn: Actually, a lot's been said about education, education, educating people. The best way, I think, to educate somebody about the abilities of—and obviously I feel most comfortable speaking to—people with disabilities is to have a person with a disability in the workplace. That so seldom is probably going to happen because, it's true, there are so few employers who see the potential and can imagine what a good thing it will be.

Knowing from having been employed, I've had different people say to me, "I didn't realize, I'm amazed that you can do all the things that you can do," which sounds a little bit patronizing, but actually if it's educated somebody, then it's okay.

The Vice-Chair: Thank you one more time. I appreciate your coming to the committee.

MAYOR'S COMMITTEE AGAINST RACISM AND DISCRIMINATION IN HAMILTON

The Vice-Chair: I'd like to call on the Mayor's Committee Against Racism and Discrimination in Hamilton, Marlene Thomas-Osbourne. If they are here, if they could come forward. Either chair is fine. If you could just take a quick second, maybe once you've sat down, to introduce yourselves for the benefit of the committee and Hansard. Thank you and welcome to our committee. I'll let you know quickly, as I've said to everyone before, you have 20 minutes for the presentation. You can use the time as you see fit, but you may

decide to leave a few minutes at the end for some questions.

Ms Marlene Thomas-Osbourne: I've got to take my breath, sorry. Good afternoon, everyone. My name is Marlene Thomas-Osbourne. I'm the co-chair for the Mayor's Committee Against Racism and Discrimination in Hamilton. With me is Denise Brooks, the executive director for SISO, which stands for Settlement and Integration Services Organization, also out of Hamilton.

I guess everybody knows that the subject today is why we're here, Bill 8, An Act to repeal the job quotas and to restore merit-based employment practices in Ontario. I have to start by saying that I guess I was one of the individuals from many other organizations, groups, around Ontario who was part of the bill that is now supposed to be the act, the Employment Equity Act that is supposed to be in the process of being implemented but the new government is trying to repeal. We had some other people who were supposed to be here, but unfortunately they cannot be.

I'm going to start by saying employment equity is about merit-based employment practices and not quotas, as Bill 8 would have us believe. Employment equity brings objective criteria to hiring, training and promotion, which did not exist in the past, and we need to see that continue, based on the Employment Equity Act that we have right now.

The government is failing to address its social responsibilities and only focusing on fiscal responsibilities. To this end, the government hasn't had time to judge the merits and success of the present legislation.

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The employment equity act, 1995, states that "Every person in possession of information collected from employees exclusively for the purpose of complying with part III of the Employment Equity Act, 1993 shall destroy the information as soon as reasonably possible after this act comes into force."

How can any plan work without information? What measures will be used to evaluate what the government is going to be calling now the equal opportunity plan? We would like to know what is the difference. We also need to know, where did the government get information that employment equity has not worked? It hasn't been given enough time.

The problem I have with Bill 8 is what's being proposed, and the problem we as a collective have is what's being proposed in Bill 8. Something is being dismantled. It hasn't been given a chance to work, but nothing has been put in its place. We need to know why.

The government of the province of Ontario is now setting us back 50 years in education, policing, the Human Rights Code, and any other act that relates to employment equity.

The Employment Equity Act creates an environment which takes a proactive approach to ensure fairness and equity. The Employment Equity Act came about after much consultation with the public, the voting public, private and community sectors, where everyone was involved with the NDP government at that time to set a

clear mandate for social peace, for employment opportunities, equity and equality.

The Employment Equity Act provides an opportunity for addressing and taking an aggressive approach to breaking down all forms of barriers within employment. It supports the rights of all people to fully participate in the economic life of Ontario.

Ms Denise Brooks: Good afternoon. I was very pleased to be an active participant in the formulation of the employment equity legislation that is under repeal right now, and am very sad to have to be in a position to come here today to speak to this issue.

One of the most important things about the act is that indeed it is misleading. There is nothing to repeal in terms of job quotas because employment equity is not about job quotas, but I'm certain that everyone who is familiar with employment equity understands that. It's more of a mirroring in terms of image building around what happens in the United States, or has happened in the United States, with setting quotas. As a matter of fact, many employers still have not completed their employment equity plans, and certainly offering fair opportunity and creating a level playing field is not about quotas, but indeed about looking at merit and qualifications and skills.

The second part of that act, to talk about "restoring merit- based employment," implies something that's based on a lot of consultations that happened and are well documented in this province that speak to the fact that racism and discrimination is alive and well in the province of Ontario, and that to assume that employment equity is equal to people with less skills qualification or has less merit than any other system is a clear indicator and clear evidence of that sort of feeling and that sort of attitude that is prevalent across the province.

So in terms of thinking about what's happening with this act, we need to think about what is going to happen in this province, and why are we talking about repealing something that indeed has not gone into existence? There was no quota system in place. We want to know what is the government's position now in terms of creating a level playing field. Based on what information is this repealed? The consultations were quite extensive for the Employment Equity Act in its creation. How extensive have been the consultations to create Bill 8 and to involve community partners and people in the formulation of what would happen?

It's not about quotas; it's about opportunities. In light of the well-documented evidence both from community and from government representatives about the experiences of employment of people—racial minorities, women, aboriginal people and the disabled—throughout this province, how does the government plan to address those issues that are very real and very poignant that affect a significant membership of the Ontario province? I think that's quite important.

The plan identifies that it's going to ensure hiring and promotion that are based on merit, that they're going to help employers develop plans to ensure equal opportunity. This is an assumption of good faith and good feelings, and so far we have not been able to count on the

goodwill of employers either in environmental issues or in employment equity issues. It has required some sort of legislative act to hold people accountable and responsible to the people who are in their environments, their communities and their workplaces.

The zero tolerance for discrimination: How will that be imposed? Who will be monitoring the zero tolerance for discrimination in the workplace?

To help the victims of discrimination faster and more efficiently by reforming the Ontario Human Rights Commission, which we know right now is a toothless body: We have very strong questions around, how do you make a toothless body something of meaning? Is it going to be independent? Is it going to have the right to impose sanctions? What form will that take? Right now we know there are backlogs, that they are going to look at case-bycase situations and thereby make it a subjective look at systemic problems, as opposed to looking at the systems that prohibit or exclude people from active and full participation. Is the government then proposing that employment equity now become a voluntary commitment, a voluntary action?

So we'd like to know, how does this plan differ from the present legislation? If the goals are the same, is the meaning different? Is the publicity around it different? Are we responding to people in the society who are putting forth some feelings based on their personal positions? We need to look at that. Voluntary participation is certainly inadequate. It hasn't created any change in the past and we have no indicators that it is going to create any change in the future.

I think if we draw examples from the environment recently, the Honourable Sheila Copps pointed out that only 30% of corporations who were asked to voluntarily do something about how they were engaging in environmental consciousness chose to do so. The other 70% had to be pointed out with some legislative guidelines.

Given the climate, what kind of educational supports are going to be in place? What kind of accesses will there be for the community, and how would this be implemented and effective anyway? How will you measure this act without having what has been formally identified as goals and time lines?

Furthermore, what about the consultation of communities? The citizens have come together prior to this to design a plan, and I think it's important and we believe it's important that when we're designing plans, we do involve the people for whom it is intended, that we don't sit outside and make decisions about others without their participation. Certainly, the consultation has not happened. What kind of review of audits has gone on to this point? Those are the kinds of things we would like to know. We'd like to know how the plan is going to be evaluated, what is the timetable, and how can equal opportunity be guaranteed?

The recommendations coming out of this are first of all that the name of the act definitely needs to be changed, because it is based on misinformation and is certainly misleading, and that the act must be adopted by the government so that employment barriers can be removed.

The Vice-Chair: We have approximately six minutes remaining; that's two per party. We'll start the questioning with Mr Sergio.

Mr Sergio: Are you the chairperson of the mayors' committee?

Ms Thomas-Osbourne: Yes, I co-chaired, with the mayor of Hamilton.

Mr Sergio: How extensive of communication have you had, meetings with the various communities in the Hamilton area?

Ms Thomas-Osbourne: How extensively have we had meetings dealing with employment equity? Very extensive. When the previous government was in power, before the previous government was in power, and now that we have seen this, we are starting all over again. So a lot, very extensive.

Mr Sergio: So you are speaking on behalf of many organizations, I suppose.

Ms Thomas-Osbourne: Yes, very much so. This was put together by the groups you saw at the front. Some couldn't be here, like the social planning and research council, which does a lot of research within the Hamilton-Wentworth region dealing with employment etc.

Mr Sergio: You have touched on the fact that the Human Rights Commission is very weak, very inefficient, and there is a backlog, and voluntary equity plans wouldn't be probably working. What makes you think that?

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Ms Thomas-Osbourne: Because history has shown us when we are dealing with equity that voluntarism doesn't work

Mr Sergio: Have you had some experience with the Human Rights Commission?

Ms Thomas-Osbourne: Yes, I have, myself personally. When we're being hired for jobs, it has nothing to do with your credentials a lot of times. It's looking at me when I come through the door. That's enough experience for me and a lot of other people who look like me. That's simply enough.

Mr Sergio: You say "like you." What about other groups, let's say, women or handicapped?

Ms Thomas-Osbourne: Other groups, yes. Where there's some form of discrimination when it comes to hiring practices, we do need legislation in place that is going to be forced on employers because voluntarism hasn't worked and it's not going to start working now.

Ms Churley: As a New Democrat and as somebody who helped create this legislation, I'm quite aware, as you are, that this is not quota oriented.

Ms Thomas-Osbourne: That's right.

Ms Churley: In fact, there were many who wanted us to introduce quotas and we said no. So it's very disturbing to us to even have this in the title of the bill when we know it's misleading.

I want to ask you a direct question. In the black community and other equity-seeking groups, what does it do to you when that kind of misconception is out there, what is being said and was said in the election campaign, that those equity-seeking groups are asking for special treatment, that this is quota-based legislation and you are asking for special treatment? How does it make you feel? Do you think that does anything to help create a feeling of harmony between all of us to right this wrong?

Ms Thomas-Osbourne: Let's start out with the last and move up to the first. It doesn't create any form of harmony at all. What it does is destroy. It destroys your self-esteem, number one, because personally, as a black person, I'm highly educated, I'm qualified for work that I look for. I'm not going to be going out there looking for a surgeon's position if I'm not qualified to be a surgeon. What people from my community and I am sure other communities are asking for is the opportunity. Give us the opportunity to fail ourselves; don't tell us we're going to fail even before we are given the opportunity. It's that simple.

Ms Brooks: If I could just respond as well, in our organization we represent and serve many, many communities in the Hamilton area because we are a settlement and integration agency. We identify ourselves as an anti-racist organization, and when you ask me, "How does it make you feel?" it speaks very specifically to the heart of things, because it does speak to your qualifications. It makes it seem as though you're always having to apologize and to adjust and to do extra because it is assumed that just because you are not white or because you are not male or because you are not fully able that you are therefore equally not qualified and that whatever your credentials are, you don't have the same merit as everyone else. That's what a quota says.

But we can look around, in response to the other gentleman's question, and see that the proof indeed is in the pudding. When we look at levels of management, when we look at who are superintendents in the boards of education, who are the administrators, when we go into visible places where minorities and women and disabled people may be represented, the numbers themselves are visibly low. We need look no further than that. It is well documented. In addition to that as well, it is well documented. If the goodwill and good gestures of employers were going to look at everyone in a very equal fashion, we would see that the marketplace would indeed be reflective of the population of Ontario, which is very diverse. Since it is not—

The Vice-Chair: Thank you. Sorry, I'm going to have to—we're eating into the time of the government party.

Mr Young: What caught my interest is you said that there are no indicators for change in the future. I just want to look back a little bit at the history of Toronto. At the turn of the century, if you weren't Methodist or Anglican in Toronto, you almost didn't exist. You were nobody. When my father came to Toronto in 1920 as a little boy, it was the Irish who did all the construction. They came here and they took whatever jobs they could get. Then in the 1950s it was the Italians who came in and they took whatever jobs they could get. We know that Italians and Irish are right across every stratum of our society now. I think of my wife's father, who came from Ukraine in 1949, and it's the same thing: People

study and they work hard and as individuals they work hard to get ahead. Over 50% of our university grads are women, over 50%, and women who graduate and go into the workplace are making within 1% as much money as males. So there has been tremendous progress and I'm very proud to live in this society.

Don't you hold any hope out for society without a law that forces employers to hire somebody by race?

Ms Thomas-Osbourne: I'm going to respond to this. This is the very same reason why the Employment Equity Act must remain in place and be implemented, because of what you just said. You're talking about white-faced, which is already privileged—quite.

When we're talking about the four target groups, these are people who are told constantly, "You have to double up." When I sent my kids to school, they always had to try harder, even though they are highly intelligent, they're A-plus students, and that's what we're talking about.

We need legislation in place. When you talk about hiring practices, when you go into the workforce—again, as they said, who's being promoted? We do not want entry level jobs just to stay there. We are qualified and we want to be given the opportunity to be promoted for what we are suited for.

Mr Young: So do you think women as a group need the same level of protection?

Ms Thomas-Osbourne: Yes, women are also included—

The Vice-Chair: Mr Young, I'm sorry, I'm going to have to cut you off. You've gone beyond our time limits. I want to thank you for coming and appearing today and making your presentation.

Ms Thomas-Osbourne: You're welcome.

The Vice-Chair: I sense the demise of my time as Chair, so I'm going to turn things over.

POLICE ASSOCIATION OF ONTARIO

The Chair: Representing the Police Association of Ontario, David Griffin. Welcome, David. You have 20 minutes to use as you see fit. Question time will be divided evenly among the parties and we will start with the NDP when it's their turn.

Mr David Griffin: Thank you to the committee for the opportunity to appear today. I'll apologize right from the start, firstly, that I don't have any written submissions. Unfortunately, time hasn't permitted me to put anything together, but I think my points will be fairly brief, hopefully succinct and straightforward. And also, my colleagues who wanted to attend today couldn't because of scheduling conflicts. But in any event, I am here to appear on behalf of our organization today in support of Bill 8, as it relates to the provisions of the Police Services Act.I want to clarify that, that my comments don't relate, either pro or con, for the Employment Equity Act, but simply the Police Services Act as we have been regulated over the last five years.

In August of this year at our annual general meeting, we had approximately 200 delegates from across Ontario who unanimously adopted a resolution which called for the repeal of the provisions of the Police Services Act

which deal with employment equity and the regulation itself.

By way of background, the Police Services Act was proclaimed in June of 1990 and section 48 of that legislation requires police forces to prepare employment equity plans. The legislation in section 48 clearly requires both goals and timetables which, in our view, are definite quotas, and requires that the plans be approved by the province through the Solicitor General.

Sections 17, 31 and 41 of the Police Services Act placed obligations on the chief of police, the commissioner of the OPP and local police services boards to establish and implement employment equity plans.

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The following year, Ontario Regulation 153, 1991, was passed and it required established timetables for the filing of employment equity plans and set out the requirements for our legislation. The details of the plan were mandated to include measures with respect to barrier elimination, composition goals, hiring goals, position or promotional goals, which again, in our view, were definite quotas, workforce surveys, positive measures, such as accelerated promotion, direct entry to management positions and specific designation of positions in the organization for prescribed groups.

The government bureaucracy that was created to support and administer these programs literally cost millions of dollars. Activities included grants and the use of consultants to develop supporting mechanisms for the local police services. There were significant resource requirements at the local level. Each police force, and there are 105 police forces currently in Ontario, was required to prepare its own plan which detailed the consultation within the community, detailed the measures that had been taken and statistically set out the composition of the force before the plan period, the measures and the actual movement of personnel during the plan period and the change in the workforce at the end of the plan period.

The reports themselves were quite abundant. Quite literally, an employment equity plan for a local police force would be about an inch and a half thick on legal-sized paper with all sorts of charts detailing the activities and the use of the prescribed methods.

In addition, the province initially mandated eight days of training for every member of the police force, training which, although we support philosophically, unfortunately there's not eight days of training available for any police activity and certainly there was a lack of balance with other policing needs.

Our position as an organization is that we support the goals which are set out in section 1 of the Police Services Act: firstly, the need for police forces to be sensitive to the pluralistic, multiracial and multicultural society and, secondly, to ensure police forces represent the communities they serve.

However, we do not believe that the employment equity regulation and the requirements under the Police Services Act were the means of achieving these goals. Firstly, the use of quotas certainly disadvantaged other members to the advantage of others, caused acrimony, sentiments of tokenism and perceptions of rewards not earned and reduced the confidence in managers who have been perceived to have been promoted for reasons other than their individual skill and merit.

We support the need for equitable hiring and promotional practices which are fair to everyone, and certainly as an organization representing approximately 23,500 rank-and-file police officers and civilian members of municipal police forces, we're not professing that the system of promotion or advancement in Ontario's police forces is perfect, but the means of correcting that is not to change the playing field to slant in any particular favour. We would certainly be prepared to work with the province in establishing systems that are fair to everyone.

We do not support the need for the intense monitoring and review that the Police Services Act system requires. Since the announcement of Bill 8, the province has announced that the activities of the race relations and policing unit of the ministry will be disbanded and we would suggest that savings which result from that should be reinvested in other programs.

The ministry can prescribe standards on practices for police services. Standards are currently prescribed for a number of different activities, including training, equipment and police practices. Certainly the ministry has the ability to establish standards for race relations, for equal opportunity and for the advancement of the disabled in our workplaces without the bureaucracy that was introduced through employment equity.

Police forces in Ontario have been striving and committed to the goals of the Police Services Act. It makes common sense that our police forces represent the communities that we serve and it makes sense that we're sensitive to everybody's needs in our communities.

Through the local police services boards, who are presently representative of municipal councils and members of the community that are appointed by the Solicitor General, there is an ability for civilian control of police services and for those civilian authorities to monitor future equal opportunity initiatives.

The elimination of Bill 8 will allow police forces to reallocate the resources that were dedicated to employment equity to other tasks, and in our view those resources again should be reinvested in our front-line police services.

Finally, the province does play the important role of overseeing Ontario's police forces to ensure that there's a basic and standard level of police service throughout the province. We urge the government to continue that through the use of police services boards that are comprised in their current fashion and through the increased use of standards and enforcement of those standards on a provincial basis.

The Chair: You've allowed about two and a half minutes per party for questions, beginning with Ms Lankin.

Ms Lankin: I was interested in reading through the record yesterday the Ontario Association of Chiefs of Police appeared, and Jack Delcourt indicated that he didn't think there were in fact job quotas and his biggest

concern was around the burden of record-keeping, which I hear is different than the position you're putting forward.

It interests me because as an association representing the officers, you indicated yourself that you need to represent all. You will have to admit that law enforcement is an area that has primarily been an employment area for men, that it's been a long time changing.

I speak from my own personal background, not being involved in police forces but being a correctional officer. I said in the Legislature that I was hired because I was a woman, because affirmative action and employment equity was in place. I kept my job because of merit. I could never have gotten in the door without some kind of program that forced them to look at me as a candidate. Believe me, I had university degrees, I had backgrounds, I had size, weight, strength; there wasn't much that they could take away on that side. I couldn't have got in there.

What I fail to understand about the position of the police association is how you're going to get from your goals that you generally support to actually seeing the changes in the workforce that you represent, being more reflective of their communities, without some kind of employment equity program that has some kind of teeth. Yes, that's fair, but it's got to have the ability to have plans, to have monitoring and to have record-keeping, and it seems to me that's what I hear from the police most often, combining your remarks with the chiefs of police: The burden of the record-keeping, the burden of the inch-and-a-half plan was too much. How are you going to get there without it?

Mr Griffin: I guess in response to the first point with respect to goals and timetables, clause 48(2)(c) of the act says that an employment equity plan shall provide for "specific goals and timetables with respect to the elimination of systemic barriers, the implementation of positive measures and"—I reinforce this point—"the composition of the police force." The word that's used is "goals," not "quotas," but certainly in our view it's equivalent to the use of quotas.

With response to how do we get there, I guess I would respond two ways.

Firstly, I think we get there by certainly promoting it and we see that's something that does not disappear with the elimination of the employment equity regulation as we see it. It's set out right in section 1 of the act, which is I guess the mission statement for the Police Services

Secondly, I think that society has changed even in the last five years, but certainly more so in the last 15 years, that people from backgrounds and women, people from the targeted groups, may be more inclined than they were 15 or 20 years ago to seek a career in the police force.

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The Chair: I'm going to have to cut off the answer to conserve some time.

Mr Ernie Hardeman (Oxford): My question goes back to the previous questioner on the issue of quotas. It seems rather ironic that one group comes in and says that it's not quotas and another group says that it is quotas.

I'm just wondering how you would define any kind of plan that has numerical targets that one is obligated to meet; if you could define that, or how we could accomplish that, without creating quotas of course, quotas being something that is a target.

Being from the country, we produce a lot of milk where we come from. In fact it's regulated by quotas. Now, the farmer's not guaranteed he can produce that, but the number is set, what it is he is going to try to achieve every day. It would seem to me in this process that when we're talking about the numerical targets, I find it difficult to see that that would not be a quota. Could you explain, or would you have any idea how we could achieve numerical targets without it being a quota, imposed or voluntary?

Mr Griffin: I'm having a bit of difficulty understanding what I'm being asked, but I guess if the point is, do we have quotas or do we not, to reinforce what has been occurring a survey was taken of the workforce. The responses, then, or the composition of the police force was compared to the composition of the community and it was ranked position-specific. Where those numbers in the police force did not coincide with the numbers for the community, you had to set out how you were going to get there and numerically establish targets for that planned period, based on the changes you expected in that particular category.

So certainly, I guess, our experience would suggest that you can't do it without setting out specific quotas. The goals, in our view, were in fact quotas.

Mrs McLeod: I appreciate the concerns you've expressed about numerical goals, so I don't want to talk about quotas in my question. But I would like to take you back to five years ago. You said that over the course of the last five years that the changes to the Police Services Act were in place you have seen real changes in the makeup of the police forces, changes that I think would fit with the kinds of objectives that you've set out.

I guess I have to ask you, do you think it was purely coincidental that those kinds of changes developed over the course of the last five years? If it didn't have any relationship to the changes in the police act at all, what was it that brought about the changes in the makeup of the police force over the last five years? Lastly, do you think it's gone far enough?

Mr Griffin: I would be, I think, lying if I didn't suggest that the act did have some impact on policing by mandating it as opposed to encouraging it. But I think there have also, as I said earlier, been changes in society as well, and certainly the act was introduced at a period where there was considerable turmoil between the black community and the police community. I think this was sort of introduced as a means of trying to put some of the concerns to rest.

But, in our view, I think it went too far in doing that by introducing onerous requirements and not necessarily dealing with problems or perceived problems, but slapping on a solution and saying that would make it better. I don't think it does anything to eliminate discrimination in the workplace. I don't think it does anything to support people who are interested in seeking a career in law

enforcement but have some concerns as to how they're going to be received.

It certainly, I think, reinforces a climate that the police are not interested in having members from the different groups on their police forces, and the opportunity to establish that that's not the case is welcomed.

The Chair: Thank you very much, Mr Griffin, for your presentation. We appreciate your interest in our process.

Ms Churley: On a quick point of order, Mr Chair: I'd like to ask Mr Hardeman, is this government going to get rid of milk quotas next, and how does he feel about that?

The Chair: I'm not sure it's a point of order.

Mr Hardeman: All I'm just trying to say is they're both quotas.

Ms Churley: I just couldn't resist.

URBAN ALLIANCE ON RACE RELATIONS

The Chair: Representing the Urban Alliance on Race Relations, Antoni Shelton. Welcome, gentlemen. You have 20 minutes to use as you see fit. Any time you leave for questions will begin with the government. The floor is yours. Would you introduce yourselves, please, so the lady from Hansard can record your names properly.

Mr Antoni Shelton: Absolutely, Mr Chair and members of Parliament. My name is Antoni Shelton. I'm the executive director of a community organization, Urban Alliance on Race Relations. Sitting right next to me is a key volunteer for our organization, Mr Patrick Clement.

It is our hope to use the 20 minutes wisely, which is to leave most of the time for a discourse with you, the members of Parliament. However, we do have a few comments that we would like to enter into the record since we are an organization which for our 20-year history has been known to publish and to have done studies in this particular area. Unfortunately, our expertise is confined to 20 minutes. However, we do remain an open-door organization in terms of providing any consultation information that the government might want in the near future.

I'm going to turn it over to Patrick at this point.

Mr Patrick Clement: Good afternoon. First of all, the point I would like to address is that the government feels that it's getting rid of a quota bill. I'm rather puzzled, as many of the other people before you have been, that this has been called a quota bill. It seems fairly clear to me that we're not talking quotas here at all and that perhaps the problem is that the government members merely need a dictionary and we could save ourselves this whole process of getting rid of this bill. If the government realized what it was dealing with, it might rethink its stand.

Having grown up on a dairy farm, I would like to point out that, as all of this province's dairy farmers realize, with a milk quota you cannot produce more milk than that quota sets out; it's concrete. You can produce it but you won't be paid. That is very different from if we had a scheme in place which said that this is a milk marketing board which set out goals for farmers to reach. Goals are flexible. Goals are open to compromise. Goals are pragmatic. Quotas come from on high and land on top of you with a thud. I think this was referred to earlier.

One of the great ironies here, of course, is that there are a lot of people who wanted quotas. They were quite bitter when they didn't get quotas in this bill. It does seem that sometimes you can't win for losing.

Another position, of course, that the government has taken in putting forward Bill 8 is that it will allow the merit system to kick in. My question is, what merit system? What it does allow to kick back in is the status quo. If you believe that the status quo is working as far as merit goes, then you'll be happy with Bill 8. However, if you also believe that merit is important and equity is important, you will be suffering from delusions.

If you look around the corridors of power, whether in government or in private business, the reality is that today females, native Canadians, people of colour and the disabled are not represented equally and they're not represented fairly. If one looks at the fact that these loftier positions generally are accompanied by higher wages and more power, then common sense would dictate that it is not merit that keeps these individuals from rising up to that level unless they have an innate desire to stay at the bottom.

I'm assuming, of course, that nobody in this room would think that there are innate inferiorities among certain groups. So if these people aren't rising to the top, then why aren't they? Common sense would tell me that there are outside forces or systemic problems that are keeping them down.

I want to be a bit pre-emptive here in that during an earlier submission I noted that Mr Young responded that the government's dedication to equity is not on its way out, that it is merely a cumbersome law which is on its way out. In actual fact, the government may continue to believe in equity as an abstract concept, but it is only common sense that replacing something concrete that can get you to that goal of equality with abstract platitudes is not a step forward if you believe in equity and if you believe in merit.

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I'd also briefly like to say, what are we getting rid of here? When employment equity rested on this whole idea, the whole thrust towards employment equity was that the status quo is not acceptable, that there is inequity in employment in Ontario today.

Secondly, it was the people's belief who advocated for employment equity at the time that if a government is ideally situated to change something, to make things better, to improve this province, then it shouldn't just sit on its hands and hope that the patterns of the previous 2,000 years will perhaps eventually cure this problem. Instead it should get off its butt and do something about it, and that's what this bill attempted to do.

Finally, the premise underlined is that it is possible to achieve true merit-based employment by requiring the stakeholders, that is the employers, labour, employees, the government, to sit down and together establish what goals you can have. Once again, it's only common sense that if you don't have any goals you're not going to get to where you want to go because you don't know where you're going, and that's all that these goals were.

If we look at the Lieutenant Governor in Council's ability to set goals through regulation which reflect the population, that is merely one of the stakeholders stepping in. Why shouldn't the government have a role in that? It is a major force in this province, as it is throughout the world. Governments are forces, and either they have to be for the gods or they're against them.

What I find most galling about this whole process and the position of this government is the fact that here's a government which says to everyone that we're here to get government out of your faces, yet here we have employers who have bona fide gone out and collected very valuable data on who makes up their employees, and this government, the government that is going to take this hands-off attitude, is going to step in and destroy that data. There's absolutely no commonsensical, rational reason for that unless where this government wants to take us is a place where equity in this province is not strengthened but actually is weakened from the status quo so that we don't even have the status quo.

Finally, I noted that Mr Young referred to the usual chestnut about Irish forebears coming to this country, working hard, and look at where they are now. Well, first of all, previous speakers have addressed this better than I, visible minorities do not face identical barriers to the Irish ancestors that some of us may have had. But that's not my point.

My point is that if you look at the construction industry back when these Irish forebears came to Canada, they were using picks and shovels to dig building foundations. Now, I'm certain that this government is not going to go down to the Metro Convention Centre and say to the builders of that construction site that you're now going to have to use picks and shovels to dig this hole for the foundation just because the forebears did it. When you own an excavator you don't turn around and start using a pick and shovel.

What this government is proposing is to take a valuable tool, something that we've learned. We look at history, we learn, we move ahead, we do things differently than we did in 1920. Just as construction workers don't use picks and shovels, today's government of Ontario should not be relying on business as usual so that they can adopt the hands-off attitude and do nothing.

The Chair: Thank you. We have about three minutes per party left for questions, beginning with Mr Clement for the government.

Mr Tony Clement: Did you have something else you wanted to say, sir?

Mr Shelton: No, I prefer it to be within the questions, but the one issue that, of course, rings in my mind is why this government, in the context of quotas, is not addressing the quotas that are set by professional associations such as the medical association.

The Chair: That's a very good point and certainly we've heard that from a number of other depositions and our commitment is to deal with that in due course.

I did want to get back to the issue of quotas though. Although we've been talking about dairy farms, I'm not going to be cowed by that topic and I do want to address

it again. It's Friday, and my humour is not good on Friday.

I wanted to refer back to something I said last night, referring the committee to subsection 55(2) of Bill 79, which seems to suggest that in certain circumstances the government does have the ability under that legislation to mandate numerical percentage requirements for employers that would be mandatory. Does that not sound like a quota to you, sir?

Mr Shelton: Not when it's based upon the company setting, within the context of its plans—representation, yes, but based upon new hires. If you've got no more new hires, then very clearly the legislation allows for that goal not to be met. But if you have new hires, the legislation says it should be done in this even-handed way. But it's for the company to demonstrate that it had new hires where it had an opportunity. No new hires, no quota.

Ms Bassett: What I'm concerned about is that I've come around to the belief that to bring about a change in such a sensitive area as male-female or race relations in the workplace, you need a consensus in public opinion. It's getting into the whole backlash idea. We got that consensus in the election. I wonder how you feel, if maybe it's better to go ahead with our plan? We do have a concrete equal opportunity plan, or it will be concrete in the new year, but it won't be legislated. I know what you're saying; I hear that. Could you just say what you think about the tremendous backlash? That's been totally unacceptable to me, but it is there.

Mr Shelton: I think this backlash is something that has been partly fed by the media hype. A lot of us receive this information, not from our neighbours but through the media, and we all know that the media put certain spins on stories.

Ms Bassett: But do you need the consensus?

Mr Shelton: One of the issues that doesn't come out is that this bill was supported by labour.

Ms Bassett: But do you think to go ahead making the changes is better with a consensus of opinion behind you, rather than always fighting the backlash that seems to have developed, not just with the election but over the past couple of years?

Mr Shelton: As I said, Ms Bassett, in terms of the confrontation, we believe Bill 8 doesn't answer your question but sends a message to many minorities that this government is turning its back on them.

Mrs Pupatello: It's interesting that a political party actually encouraged and furthered that backlash in the last campaign.

If you could have proposed amendments to Bill 79 to deal with some of the issues employers took, what would they have been?

Mr Shelton: We were an organization, as was mentioned by Patrick, where some people called for quotas, and we believed that goals and timetables was a commonsensical and sound approach to take. We believed there were issues in terms of implementation that needed to be worked out, for example the relationship between the Ontario Human Rights Commission and the Employment Equity Commission, especially in terms of compliance.

However, as we've said consistently, we believe that through consultation this process needed an opportunity to be put to the test. It hasn't had an opportunity to do that.

1510

Ms Churley: I just want to address the comment from Ms Bassett on the backlash. It's not surprising that there's some kind of backlash during a terrible recession when people are terrified about losing jobs and not being able to get jobs, but it doesn't help when during an election a particular party, in this case the Conservative Party, goes out and feeds that backlash and talks about quotas and the fact that a white person is not going to get a job because the black person next door to him is going to get it simply because he's black. I want to make that very clear. That has been a big problem.

I want to cut right to the chase. This government is going to go ahead and repeal this bill. What kind of resources, financial and others, would you say this government must put into any kind of voluntary system it puts in place for a voluntary system to work at all?

Mr Shelton: I would quite clearly say that my limited experience with the supposedly equal opportunity plan was that very soon after the election I wrote to the Premier to ask him to outline his at least principle at that point around equal opportunity. It was then referred to his Minister of Citizenship, who unfortunately never got around to answering our letter as referred by the Premier. Then two weeks ago we were visited by a consultant who had been contracted by the Ministry of Citizenship to consult with us around equal opportunity. What this consultant eventually put on the table was something that I felt was quite cynical and could be best characterized as voodoo social policy, to the extent that it was information-gathering for employers on areas of diversity and human rights.

In 1995, I don't care what kind of resources I could talk about in that context; it provided no framework on which to hang the resources. My colleague who just spoke, from the police services association, quite clearly and bluntly he should be able to say, "We do not need Bill 79 because we've achieved equity" and put the data on the table. It was as simple as that. Unfortunately, he never mentioned once his data in terms of achieving equity, yet wanted to withdraw Bill 79. That is the kind of cynicism that we believe goes to the root, pulling away something and replacing it with porridge.

The Chair: Thank you very much. We appreciate you taking the time to be involved in our process and making a presentation.

Mrs Pupatello: Mr Chair, on a point of order: One of your colleagues indicated a particular statistic and used it in an argument about the difference in wage between women and men being only 1%. Unfortunately, now it's in the record, but he has agreed that it is false. In fact, he's taken that from an article—

The Chair: You will get a chance to put it into the record when it's your turn. It's not a point of order.

Mrs Pupatello: Can we enter the correct information into the record?

The Chair: It's not a point of order. If you want to introduce some other information when you get a chance, you're welcome to do that, but it's not a point of order.

Mrs Pupatello: Can we do that now?
The Chair: It's not a point of order.
MARTIN LONEY

The Chair: Next is Martin Loney, social policy consultant. Mr Loney's brief was handed out to the committee on Friday, so he doesn't have another handout today.

Mr Martin Loney: Perhaps I should introduce myself. I have a PhD from the London School of Economics. I've written a number of books on social policy and race relations. I have a grant from the Donner Canadian Foundation to research the area of employment equity. I'm basically here to rain on the parade of those who would tell you that Canadian society is characterized by grossly discriminatory behaviour in the labour market.

I think one of the more amazing things about this whole debate is that committees like this see representatives of groups who claim to speak for the vast majority of the population: the Canadian Labour Congress, all visible minorities, all women.

Why don't we look at polling data? How many people actually support the legislation? How many people's lived experience leads them to believe that we need something like Bill 79? The overwhelming majority of the population are members of designated groups under Bill 79, yet only 20% of the population actually supported the legislation. That might tell you something.

If we look at the kind of data which are adduced to show discrimination in the Canadian labour market—I presented evidence to the Senate social affairs committee on the same issue, which is with the minister's office, and contains a lot more detail than I can give to the committee—we find that generally what is being compared is not like with like. It is not visible minorities born in Canada with other Canadians; it is groups which are overwhelmingly composed of first-generation immigrants with other Canadians. Then we discover—surprise, surprise—that they don't make quite as much money.

What we have created, in part through employment equity, is an industry which goes out looking for evidence of discrimination. If you give people \$70,000 a year and tell them to find evidence of discrimination, it is not surprising that they come back with it. If they didn't, they might lose their jobs. If we get rid of the Office of the Employment Equity Commissioner, we will still have a large number of other people active in this industry in the Ontario government.

The Ontario women's directorate distributes a broadsheet called Focus on Racial Minority Women. In that you will read, backed with all the authority of the Ontario government, that women of colour, visible minority women, experience intentional and systemic discrimination

How are we to reach that conclusion? Let's look at labour market income data. What are the data on which this conclusion is based? Visible minority women, who as I said are disproportionately first-generation immigrants,

make 6.6% less than other women. One might think, on examining a statistic like that, given that these are a group disproportionately with less seniority in the labour market, younger, less likely to have Canadian qualifications, less likely to be fluent in English, that the outcome would be far, far greater; that 6.6% as a gap indicates an overwhelming success in the labour market, indicates an absence of discrimination.

How do we know that Ontario, as it stated in Bill 79, engages in systemic and intentional discrimination? Did the Ontario government actually investigate this? Did they consider research? Did they commission research? The answer is no. They simply assumed that it existed.

Within the Stephen Lewis report, and I deal with this extensively in my evidence, we find a number of claims about the failure of the Ontario public service to treat on an equal basis members of racial minorities. Let's look at the figures. Management Board has the figures. The figures are entirely contrary to what Mr Lewis claimed.

He tells us that racial minorities are marginalized from political staff in ministers' offices. Let's look at the figures: One in five are racial minorities. They're not marginalized at all.

He tells us of failings in the education system. Let's look at the figures. Statistics Canada shows no indication whatsoever that racial minorities are unsuccessful in gaining entrance to university. At the PhD level, they are represented at twice the number in the broader population.

I believe there was some issue earlier about earnings of graduates and a figure about the difference between men and women. There is a Statistics Canada publication, 1990 data, that shows that women graduates, when hours of work are taken into account, earn slightly more than male graduates.

These are facts. These are not things which are simply plucked from, as it were, one's experience: "This is the way it is because we know it is." We know it is because we look at the facts, we look at the data, and the data don't tell us that we require legislation of this nature in order to ensure that we have a fair outcome.

I'll stop at that point. I'm open to questions.

Mrs Pupatello: Basically, you're telling me that you don't believe there is any type of discrimination against women in Canada and in Ontario.

Mr Loney: If I said that, it would be a truly unbelievable statement. That's not what I said. I said that if we look at the data, we do not find that this is a defining characteristic of the Canadian labour market, and that when we compare like and like, as in the case for example of three PhD cohorts, we find over a 12- or 15-year period that women earn the same as men.

Mrs Pupatello: If I may, earlier one of your colleagues, Mr Chair, mentioned a statistic that was false. What he said was that the difference in wages between men and women at a graduate level was a 1% difference. What he meant to say was that all single women working full-time earned 96% as much as their male counterparts in 1993, and a particular age group of 35 to 44, all of which he failed to mention, and now we have that on record. Don't you think that the mere fact that a stats

group collecting data having to delve into so many variables in order to collect it, to find the area where they're actually close to par, is an indication that every other level between men and women in fact is very, very not equal?

1520

Mr Loney: I think what one finds there is that people's earnings are very much influenced by their marital status. Families make decisions collectively which maximize the benefit they get from child care, domestic work, labour market participation and so forth, and that to believe that if there was no discrimination men and women would be equal everywhere in every place, I believe, is quite wrong.

I don't not believe that with no discrimination, women will be queuing up in Yellowknife to work in the gold mine. I simply don't believe it to be the case, nor do I believe that the fact that men working in the gold mine get \$100,000 a year and women working as airline booking clerks get \$25,000 a year is an indication of discrimination.

The Chair: Any further questions from the NDP—or excuse me, the Liberals?

Ms Churley: There is a difference.

Mr Sergio: Do we have time? I have lots of questions.

The Chair: You've got about another minute. Do you want to use it?

Mr Sergio: Yes, of course. Absolutely. In the absence of any legislation which would give some guidelines to employers, how would you go about protecting the minority groups, handicapped, women and so forth?

Mr Loney: As I made clear in the written evidence, I believe that there is a different situation facing aboriginals and people who are disabled. I think one can show there is historic disadvantage for aboriginals; clearly, some people definitionally who are disabled have employment barriers and I believe that those should be addressed.

Having said that, I think—

Mr Sergio: I'm sorry, how would you address them?

Mr Loney: I said I believe those should be addressed, but the focus of my evidence, is on women and visible minorities, where I simply do not believe the case has been made.

I do believe that individual employers discriminate and I do believe that should be subject to punitive prosecution. I think if you want to deal with that, you have to deal with the Ontario Human Rights Commission, which nobody has yet managed to do. It is clearly not an effective body. It's a highly political body.

Mr Sergio: We had a number of people saying that the Human Rights Commission is ineffective and inefficient. How would you deal with those cases, then?

Mr Loney: I would have to look at the Ontario Human Rights Commission. I would have to look at reconstituting it. I would have to look at the competence of the staff who are employed. I would have to look at the commissioners who are making the judgements.

Ms Lankin: In this imperfect world in which we live, we sometimes try to fashion the best solutions to problems that are available to us. It seems to me you're suggesting with respect to visible minorities and women that any problems that are experienced are individual in nature and should be dealt with either as an individual victim of discrimination or an individual perpetrator—one employer—and through an individual source of remedy, being a more effective Human Rights Commission. Quite frankly, that doesn't accord with my experience in the world.

I'm interested in all of what you've said; it seems to be statistically and data-based. Have you done any research that is—I'm not sure what the appropriate terminology would be—qualitative research that would deal with individuals' experiences, or do you simply dismiss that as not being statistically based and therefore not being empirical enough for you to suggest that governments, which are public policymakers, should respond to what we see as a real concern?

Mr Loney: Firstly, I would have to say that the reason that governments see it as a real concern is, in significant measure, because they hand out larger sums of money to people who tell them it's a significant concern.

Secondly, I don't think it's simply an individual question. The argument I'm making is that you cannot provide the evidence for the claims which are made by advocacy groups regarding systemic discrimination. People will tell you, "Why only in management?" I will tell you, look at the statistics—8% visible minorities compared to 10% as a whole. This is a remarkable success for a group which is 83% first-generation immigrants. This is far more success than the Irish that we were talking about earlier or the Ukrainians ever had.

Ms Lankin: Could I just ask you two or three quick questions. You see no need for employment equity legislation, is that correct?

Mr Loney: I believe employment equity legislation has had the pernicious consequence of creating and enforcing the racial divisions it claims to deal with.

Ms Lankin: I take it your answer is yes?

Mr Loney: Yes.

Ms Lankin: Okay. Could I ask you if you feel the same with respect to pay equity legislation?

Mr Loney: No, but I believe in the case of pay equity we should have been looking at, if people were being paid too much, to take from them and give to those who were being paid too little, not to borrow more money on the deficit and give everybody more money.

Ms Lankin: But you do believe that there is a gender gap in wages that could be statistically proven and that some legislative—

Mr Loney: In some cases, but I don't believe that all gender gaps in wages are a function of discrimination or inequity, no. I gave the example of the miner and the clerk.

Ms Lankin: I don't believe that any legislation suggested that to be the case.

Mr Loney: No, and I'm answering your question, that there are areas of pay inequity but they're not as perva-

sive as is widely believed and often we are not comparing similar jobs. When one does compare contemporary cohorts, as for example in a report into the federal civil service, one finds that contemporary cohorts of men and women have outcomes which are very similar relative to their qualifications.

Ms Lankin: I think that the last question that I want to come back to which I don't believe you answered is, one of the problems I have with a lot of the statistical data that is presented to legislators, pro and con these various issues, is the way in which the data is calculated and of course the way in which it's interpreted. I would argue that there's an industry for people doing your sorts of research to support those who don't want to see these kinds of legislation as much as your comment that the reason we hear these things is because grants are given to those groups.

I still want to come back to an understanding of the individual's experiences and when, in your mind, does that total itself up to be a systemic experience, because I can tell you, over the years, not just what I've heard but what I've experienced and what I know from friends and colleagues, and here I'm talking about gender discrimination, you couldn't show me statistics that would convince me that it hasn't existed. So I'm wondering if you have done that kind of research, or do you think that that is just not at all helpful to public policymaking.

Mr Loney: If I'm a member of an industry, I have yet to meet another member of it. The statistics I use are overwhelmingly derived from work by people who actually believe in employment equity, and as I show in the evidence I gave to the Senate, you find enormous contortions when people are confronted with the fact that the data they have doesn't support the conclusion they started out with.

I have personal, direct experience of discrimination based on the fact that I am an able-bodied white male. It is actually quite pervasive now in certain sectors of society that if you're an able-bodied white male, "We already have too many of them, I'm sorry."

Ms Lankin: That's very helpful to know.

Mr Young: For the record, to my colleague opposite, Mrs Pupatello, we are all colleagues here. I don't think the delegations care what party we're from. We're all working towards the same end. I did mention a statistic that was somewhat selective. I want to add to it, and it was a sentence that you didn't finish when you were reading from the article that I just gave you, because we have to work together. "In the same category of single, working women, full-time, age 35 to 44, women actually earn more." Now that's 1993 StatsCan figures; in 1995 the figure could even be higher. So that's worth correcting.

Also I take exception to Mrs Churley's comment, and it's a very serious accusation and I'd like to know the source of it. You said that Conservatives were campaigning in our election saying that the black person got the job so the white person wouldn't. I'd like to know who said it, because I never said it and I don't know any of my colleagues did, and I think it's cheap politics.

The Chair: Mr Young, would you confine your question to the presenter, please.

Mr Young: I'd like to ask the delegation, our economy has been stagnant and the larger employers, 50 employees and more, haven't been hiring. In fact, they've been decreasing the number of employees. Whether you call it a goal or a percentage or a quota, does it not make sense to measure percentage of new hires to see if employers are being fair as opposed to a percentage of total employees?

Mr Loney: That would be the exact figure that one should be looking for, and I think the fact that that's not the figure which is characteristically used is indicative of the egregious way in which the employment equity industry uses figures. That is the right figure to use, yes, if one needs to collect that data.

Mr Jim Flaherty (Durham Centre): Miss Martin, who's writing a series of articles in the Toronto Star—she's a journalist—was here last evening and among the other submissions that she made, she said that the primary factor in determining the composition of a labour force in a particular area is demographic. Is that statistically so?

Mr Loney: Yes, but it's also a historic construct. If you want to know why white males do so well when you look at the upper echelons, you have to go back to the recruitment period. You have to say, "In 1960, who were we hiring and who's been here 30 years?" And of course seniority, which is a great trade union principle, guarantees that those who are here after 30 years are moving up and those who just started are not catching up, obviously. You don't suddenly arrive, as it were, in the Toronto school board and say: "Well, now we have 50% of the population in Metro Toronto a visible minority. Why aren't 50% of the teachers? Must be discrimination." When were these teachers hired? Who was there? Who was applying?

The Metro Toronto school board has had a world-class record in fighting racism and having intelligent policies about a multi-ethnic, multiracial society, yet at some point the debate turned on its head and people began to denounce it as a racist organization on the basis of the specious argument that they didn't have the right quota of teachers.

The Chair: Thank you very much, Mr Loney. We appreciate your attendance and your interest in our process.

1530

CANADIAN FEDERATION OF INDEPENDENT BUSINESS

The Chair: The next presenters are on behalf of the Canadian Federation of Independent Business: Catherine Swift, the president, and Judith Andrew, the director of provincial policy. Welcome to our process. You have 20 minutes to use as you see fit. If there's time for questions, they'll begin with the NDP.

Ms Catherine Swift: Thank you very much. We would like to take as little time as we can manage for our presentation and leave as much time for questions, so

we'll try to be brief. We very much appreciate the opportunity to be here.

As I suspect you probably know, we're an organization that represents small and medium-sized businesses across Canada. We currently have approximately 85,000 small and medium-sized business members across Canada, half of whom are under five employees in terms of size, 80% of whom have less than 20 employees, and that is pretty much reflective of the business community. In Ontario, we have about 40,000 members in all sectors, again reflective of those size numbers that I mentioned earlier.

As you probably know as well and as I think was alluded to in the previous questioning a little bit, these days virtually all of the net new job creation is coming from this sector of the economy. Through the 1980s our sector represented about 80% and we find these days, when things are leaner, it's actually all of the net job creation. So, as a result, the views of this sector are quite important for the economy overall, not to mention the sector itself.

The CFIB membership is very supportive of the government's plan to follow through on its pre-election commitment to repeal the Employment Equity Act. We've been involved very much in this debate since the early days around 1989 when it began under the Liberal government at that time, and our position has very much been consistent, based on the views of our members that legislating employment equity is not workable for the small-business community and we don't believe it's really that workable to eliminate discrimination and promote equality of opportunity generally in the workplace. But certainly for our sector that's the case.

Our members very much, of course, are advocates for the elimination of discrimination and the promotion of equality of opportunity in employment and elsewhere in our society. We believe also, from our experience dealing with small business owners, small businesses have a particular ability to empathize with the hurtful effects of discrimination, since often a very small business finds in a legislative context, in dealing with big players such as big governments and big banks and so on, they are frequently themselves subject to a different kind of discrimination, but nevertheless they certainly can empathize with those types of situations.

We believe that the solution to discrimination in society is multifaceted and that it is evident now that the job of changing attitudes in the community is a long-term process which requires a number of elements—certainly sensitivity on the part of all players. We feel that education on the issues and the various ways of addressing them is key to achieving the necessary changed attitudes and the regulatory approach which produces a lot of compliance problems, paperwork, concerns about reverse discrimination and so on often risks hardening attitudes instead of really ultimately changing them, because the only success we'll have as a society will be if we really alter attitudes.

We'd also like to highlight that one of the priorities on the surveys that we do with our members is consistently the shortage of qualified labour. Small business owners and managers are well aware that attracting and retaining good employees are pivotal to their own success, and although they certainly have less scope than other organizations to engage in capricious employment practices for these reasons as well, naturally our member businesses very frequently are operating every day, all day, right beside their employees, and they're certainly a very different work environment than you would find in a very hierarchical corporation.

Through our work in this area, for example, we've been told by organizations representing the disabled that many of their successes in job placement have happened in smaller firms, and we think that's very much the case for the other groups that were targeted by this legislation as well.

Ms Judith Andrew: We were pleased that the former government, and in particular the former minister and the Employment Equity Commissioner, were willing to engage in extensive consultation with our organization. We believe that they genuinely attempted to take into account the smaller business realities when they were fashioning their Bill 79.

Nevertheless we were concerned at the time, and we remain concerned, about a mandatory interventionist approach contained in the Employment Equity Act. We certainly understood that the Employment Equity Act reflected the former government's commitment to the principle of equity in employment. In fact, we certainly agree with the principle, but we didn't think it would be possible to translate that principle into a fair and workable piece of legislation, and we felt that proved to be the case in terms of the serious failings of the legislation that was ultimately passed into law.

I guess, from our small business members' perspective, the number one serious failing is onerous regulatory burdens. When you're creating a brand-new regulatory scheme, this obviously means new compliance requirements, and when you have very prescriptive regulations, often those don't mesh very well with the small-firms sector.

I would just draw your attention at this point to a piece that's in the side pocket of your folder entitled The Ontario Employment Equity Checklist. Just to give you a feel for what was involved with the Employment Equity Act, this is just a listing of what needed to be done, and it's a four-page foldover format. You can see that when you get down to the right on page 3, "Prepare a record," in terms of the detail on the data that are required by occupational group, by gender and so forth, you're getting into some fairly complex detailed requirements. So this would just give you a feel for what's involved there and why we're concerned about the regulatory burden.

I think another major concern is the subordination of individual rights in favour of equity group rights, which was contained in the language of the legislation and the regulations. I guess the most obvious example of that is the principle that was contained in paragraph 2 of section 2 of the Employment Equity Act, which stated that:

"2. Every employer's workforce, in all occupational categories and at all levels of employment, shall reflect the representation of aboriginal people, people with

disabilities, members of racial minorities and women in the community."

This of course suggests a highly regulated, quotadriven approach, and it suggests population data rather than availability data. Of course, substantive provisions in the legislation did deal with some of those issues, but the fact of the matter is the language was really directed in that direction.

One comment we made when Bill 79 was passed was that the legislation failed to state that the employers have the right to hire and promote on the basis of qualifications, basically the merit principle, and that no one would be expected to terminate or demote existing employees in order to realize objectives. That was not stated categorically in the legislation, and that, we felt, was a major failing.

1540

We were concerned very much about the establishment of a large new government bureaucracy with a budget of over \$9 million. This bureaucracy had wide-ranging powers under the act, many of which would be conflicting in terms of the same organization that was giving the support and educational functions also having the power to audit, effect settlements, issue orders and file and prosecute complaints. I think the most serious concern we had about the bureaucracy was that with the requirement to file detailed statistical reports at various intervals, this suggested that the commission was going to build its own statistical database, and this of course would be duplicative in terms of federal census data and other data sources.

The mandatory requirement to set numerical goals and timetables, which applied to firms having 100 or more employees, and to submit those reports, which was enforced by a government bureaucracy under the threat of \$50,000 fines, many would say is a quota system. Obviously it would have depended on how the commission administered it and the decisions of the tribunal.

Our concerns go directly to the heart of the legislation, and these are the reasons why CFIB supports the Ontario government's decision to repeal the Employment Equity Act by way of Bill 8. We certainly approve of the government's replacement policy, which was described by Minister Mushinski in her statement as "non-legislative, non-intrusive, cost-effective and built on partnerships."

I should advise you that our organization is very interested in this area. We've already participated in a brainstorming session in connection with the three components of the new policy. You will know what the three components are, but our session covered important areas such as resource materials, information services, communications/outreach, best practices/role modelling and training and workshops.

Certainly we made the point that for small businesses the initiatives in equal opportunity have to be very practical and easily available when needed. For example, a small business person endeavouring to hire a person with a disability and in need of advice on how to accommodate that disability would need to have that provided on a just-in-time basis.

Also, I would note in the past that CFIB has been involved in equity/diversity promotion initiatives. We've participated in an advisory capacity with the Ontario women's directorate and with TVO on various projects. I also have enclosed in the package for your information the other page, which is entitled Ontario Employment Equity: Implications for Employers, and this one was forwarded to all our members last year. I think it's important to note that the author we commissioned to do this for us positioned the initiative as a management principle designed to make employment management and relationships more effective, and this was done deliberately, rather than positioning it as a compliance objective. So we have done considerable work in this area and this particular piece would have been distributed to our 40,000 members.

I'd like to make reference just briefly to the Human Rights Code, which is the legal foundation for the new policy, and draw your attention to CFIB's suggestion for financial assistance for small businesses facing expensive accommodations. When you think of it, it is really quite unfair that one small firm would be having to shoulder the entire cost of an expensive accommodation. Most accommodations aren't expensive, but every once in a while there is an expensive one. In this regard, CFIB is concerned about the so-called brink-of-bankruptcy test that the Ontario Human Rights Commission applies. Basically, this is their test for finding out whether the cost of the accommodation is bringing the firm to the point of undue hardship. We call it "brink of bankruptcy" and we believe it is a mistake for the government policy to so weaken a small firm. We would encourage that this issue be reviewed in the context of the new equal opportunity policy development.

I guess a final point here is that the workplace equal opportunity plan needs to be cost-effective and based in economic reality. Certainly, government's role in this sphere, beyond the facilitation and provision of direct initiatives in employment equity, is the mandate to create conditions where private sector, small-business job creators can actually grow and prosper and provide increased employment opportunities for Ontarians generally. This mandate is very broad. It includes the need to reduce smaller firms' total tax burden and their regulatory and paper burden so that these impediments are not standing in the way of small business job creation.

We appreciate the opportunity and we're happy to answer your questions.

The Chair: Okay, we have enough time for one quick question each, starting with—

Ms Lankin: That's not fair. I have so much that I want to ask you about and so many comments I want to make.

The Chair: A minute and a half.

Ms Lankin: I'm going to try to boil it down to two quick questions.

First, the destruction of data that currently exist, given the efforts that you're making with your membership and those particular members who are covered by the old legislation, because many weren't as a result of your very effective work: Do you think they should be allowed to keep the data? Does it cost more if they're going to have to destroy the data and then start again if they want to get their own plan going?

Secondly, in terms of paperwork and burden on firms, one of the things I believe that your groups, businesses that belong to your organization, believe in is unified tax reporting. Do you think that it's the wrong thing for small business that this government has cancelled the unified reporting program that was in place, and isn't that a greater regulatory burden for your small businesses under 50 than the previous Bill 79?

Ms Andrew: I wasn't aware that the Clearing the Path project had been cancelled.

Ms Lankin: The unified tax reporting, which was supposed to be implemented in January of this year in the Ministry of Finance—all the design work was done; the implementation of it was completely canned.

Ms Andrew: That's interesting. That particular project was a two-edged sword in terms of small business. Certainly, one-window shopping is always better in some senses. On the other hand, with some of the tax reporting measures that we have now, there are flexible payment frequencies and so on for small business, and it wasn't clear to us how that would have been accommodated in a unified system that would have worked across the board.

Ms Lankin: Judith, come on, you demanded it for years, right? It's an interesting—

The Chair: Thank you very much for the question. Mr Maves.

Ms Lankin: Could you just address the data question, please. I don't understand it.

Ms Andrew: We are concerned about duplication— The Chair: Excuse me, Ms Lankin's time is up, okay?

Mr Maves: Thank you for your presentation. I had my own small business, so small, in fact, that I only had one employee, being myself. I confess to not carrying out a job search because I could only hire myself, but one of the contracts that I had in my business was to help another small business, under 10 employees, to do a search for some more employees. My experience through that was that it was an extremely difficult and expensive process.

The owner of this small business worked himself, on the road, 16 hours a day and didn't have time to do it, so he hired me to do it. It was a very difficult, expensive process and it wasn't very successful. Some of his word-of-mouth hiring—it was a construction company—actually worked out better. He got all kinds of people from all the different groups, actually, working for him by that method. But I support businesses doing outreach programs and so on, those that can.

The Chair: Ask your question.

Mr Maves: What percentage of your businesses are so small that it's too cumbersome and expensive for them to do proper searches?

Ms Swift: I would think about half. Again, how do you define what's too small to do a proper search?

Certainly, given that about half of our members have fewer than five employees—and what constitutes a proper search I'm not sure. They sure don't find a headhunter, for example, or whatever. I think a lot of hiring would be done in informal, we'll say less formal channels.

But again I think that simply underlines why the methods we've tried to promote, of information provision emphasizing the business advantages, which are clear, to proper employment equity and tried as an organization to foster that among our members, that's why we believe those methods will work. Anything that's even remotely related to quotas when you've got four employees is pretty irrelevant, which is why, of course, we had—

Ms Lankin: The legislation didn't affect that. 1550

Ms Swift: I was just going to say that actually. Just let me finish my sentence—which is why it did not apply to those with less than 50, because it made no sense.

The Chair: Thank you for your answer. Mrs McLeod. *Interjection.*

Ms Swift: You should let us finish our sentence.

The Chair: Order. It's Mrs McLeod's turn to have the floor.

Mrs McLeod: In the very limited amount of time that we have, I'm just going to focus on the question of costs that would be seen to be undue costs to small businesses. You particularly talk about small businesses facing expensive accommodations, I assume as a result of an order from the Human Rights Commission.

I have a three-part question. I'll put it very quickly. Do you see a role for government in assisting businesses with the cost of accommodation for equity even prior to its having to go through a judicial process and an order being made? In other words, is there a proactive role for government in helping with the accommodation costs for greater equity?

Then there is the question of the destruction of data, which Ms Lankin raised, in terms of the cost to businesses that want to proceed with employment equity having to redo that data.

Third, there is a part of the act in the process of repeal that says that any employer that is involved in a proceeding in front of the existing employment tribunal, that will all be cancelled and it will be done without costs, and I'm wondering whether you feel this is an undue financial burden on businesses that have been involved in the process to date.

The Chair: We need very quick answers, ladies, please.

Ms Andrew: Yes, in terms of a government role before it gets to the Human Rights Commission, absolutely. Small firms are wanting to help in this area, but to have one small firm shoulder the cost up front or to have to deal with it through the Human Rights Commission is just unworkable. This is a case that calls for assistance, I think.

Mrs McLeod: So it's a legitimate thing.

Ms Swift: There don't seem to be a lot of them. There aren't really a lot of them.

The Chair: Unfortunately, because we have other groups waiting to present, I'm going to have to draw the line. Thank you very much for your input.

Ms Lankin: Mr Chair, you don't know whether they want the data kept or not.

The Chair: I think we've asked that question. Thank you very much for your time. We appreciate your being interested.

Mrs McLeod: Mr Chair, you didn't give the witnesses an opportunity to answer that particular question.

The Chair: Well, when I tell you you've got a minute and a half for questions, you need to keep the question short.

TORONTO EMPLOYMENT EQUITY PRACTITIONERS' ASSOCIATION

The Chair: The next presenters are the Toronto Employment Equity Practitioners' Association, better known as TEEPA, represented by Lynn Bevan, Jeroo Irani, Cliff Hawkins and Elizabeth Mackenzie. Welcome to our process, ladies. You have 20 minutes to use as you see fit. When the time for short questions comes, we will be starting with the government. The floor is yours.

Ms Lynn Bevan: My name is Lynn Bevan, and this year I am president of the Toronto Employment Equity Practitioners' Association. We've submitted both a brief and a backgrounder paper which we hope you will find of some assistance.

Very briefly, TEEPA is an organization that was founded some seven years prior to the passage of the Employment Equity Act, 1993, in Ontario. I think that in itself is significant and also will set the tone for our presentation. Employment equity as a term, as you will be well aware by this time, was coined by the Abella commission in 1986. However, as Judge Abella recognized at that time, employment equity was a new term for an older concept, which was allowing people, rather than requiring them, to take steps that would ensure equality.

About that same time the Supreme Court of Canada made the very astute observation that equality by necessity means treating people differently, because if you treat people the same you're almost certain to cause inequality. The reason the court said that was the recognition that what equality means to a person who can walk is different from what equality means to a person who cannot. So the idea that someone can have equal treatment by having a set of steps to get up to that job or to any other opportunity, yes, that's equal treatment, but it doesn't mean equality or fairness.

With as a background, the reason I stress that TEEPA was around prior to the passage of any legislation is that there is a recognition within organizations that they will have to take steps to reflect people's differences.

We are here to speak specifically about Bill 8, which has an unfortunate title, which is one of the points that we're going to talk about. The second thing we want to talk about specifically is the retention of data. I'm actually going to start with the second point first.

The retention of data issue is somewhat confusing to us. We don't understand why a government that says it is committed to keeping its face out of business is also committed to destroying data that organizations would choose at this time to retain.

Business works on goals and timetables. They work by setting objectives and time frames within which they can achieve those objectives. In order to determine whether they've met a goal, they take measurements, so that if it is of concern to a business to try to make their employees as happy, productive and long-lasting as possible and if they, in their own judgement, conclude that they can assist that objective by finding out what keeps some people in the workplace, what attracts others to the workplace, I don't see why it should be of any concern that the data that have been collected for that purpose, by some organization's view, should be destroyed through this bill.

That is our main point on subsection 1(5). We believe that data should be retained by those organizations that see data as useful to them. If the concern of this government is, as it has been of the Ontario Human Rights Commission, that these data might be misused by any organization, then rather than requiring their destruction—to use that old saw, why throw the baby out with the bathwater?—it would be much more appropriate to consider putting constraints on their use or to rely on the existing protections that are found in the Human Rights Code and elsewhere at this time.

We strongly urge you to revisit that issue of destruction of data, because if the government is committed, as it said in its pre-election campaign promise, to an equal opportunity program, then this will, in our view, assist that promise to be fulfilled, because if people are of the view that they need to take these steps and you wish to leave it up to them, then this is a means by which they can achieve that.

I don't think I need to say this, but some organizations have recognized that not everyone has an equal voice in the workplace, and that is one of the things that we want to talk about when we talk about the whole idea of repealing a law in order to eliminate quotas and restore merit.

Merit is a relative concept. In some organizations productivity would be judged by allowing an employee to spend three hours a day phoning charitable organizations, asking how they can be assisted. In another organization it would be producing a certain number of auto parts. Merit does not have an absolute concept and the whole idea of being able to say that a goal, which is all that was required by Bill 79—and we're not here to reargue what Bill 79 said or did not say—but to suggest that the establishment of a goal or the setting of a time frame within which that goal could be achieved equals a quota is something we find very hard to accept.

Concerning the business of merit, which I've already alluded to, merit is a relative concept, so to suggest that my view of who is an appropriate person to hire may be different from yours and therefore I don't hire on merit and you do is just, to me, illogical. I don't see the connection between this. I am a lawyer. I also don't see why it is necessary to call the bill anything other than what it is, a bill to repeal certain legislation relating to employment equity initiatives.

Do you have any questions?

The Chair: The questions begin with the government and we have about four minutes each. So Mr Clement.

Mr Tony Clement: I just wanted to shed some light because I think you expressed some genuine dismay at why we wish to destroy the data. So I wanted to explain and then get your comments on my explanation, if that is appropriate.

You're looking at it from a business point of view and what is in the best interests of the business establishment to carry on with its programs, and we had to weigh that against the rights of the individual.

I guess if we're guilty of anything, it is standing with the individual rather than the business. The reason I say that is because we feel that information that has been obtained by virtue of a coercive piece of legislation is necessarily tainted and would necessarily be information that in some circumstances—not all circumstances but in some circumstances—that individual really did not wish to have in the hands of the employer.

You can say all you want that it was voluntary, but if the employee knew that the employer was held up to a standard because of numerical targets or goals, and that if that employee did not give that information the employer would suffer, there is an element of coercion involved. We wish to have a process of equal opportunity that is available to all, not built on the foundations of coercion. Do you wish to comment on that?

Ms Bevan: Yes, I do. First of all, I'm glad that you reminded us that Bill 79 was voluntary and what you've done is, you've suggested that it was self-identification. There was no compulsion to complete a workforce survey. In fact that law required the survey form and prior communication to note the voluntary nature of the survey collection.

Second, the format of the survey was such that there would be no employee identifier on the document, so that it would have taken a complete and deliberate breach of the law to have identified an employee from the document as it was drafted. But rather than getting into what Bill 79 said, I'd like to address your bigger question.

First of all, TEEPA is a diverse organization. Unlike the submitters who preceded us, TEEPA represents a diverse group of practitioners in a field that has continued with and without legislation, includes special-interest groups as you would call them, members of designated groups, business representatives, all of who have a common view, which is that there is a place for this in the workplace. So I don't want to suggest that this group here comes only from a business perspective.

Secondly, to suggest that the only way to ensure that those who may have been the subject of a breach by their employer in the way that the survey was conducted is to destroy the data, to me, is very uncreative. There are other ways that that same objective could be reached, not the least of which is simply to ask people whether they're prepared to have the data that were submitted by them stand with all the protections that existed before. There can be no individual data shown. It always has to be in a collective format.

There are already protections in the Human Rights Code that have existed for years that say that should you misuse that as an employer, then you are going to be subject to a human rights complaint. So that in terms of saying that the only way to protect people who have not come forward to express that concern, unless they are certain that it's going to be misused, is to really get back in a small way but not an effective way, with all respect, into businesses running their own business. I do believe that it is possible to say, "Do it at your peril," because the same problem has always existed. There is on file right now in any workplace extensive personal information about employees.

The Chair: I'm going to have to interrupt you there and go on to the next question. Mr Sergio.

Mr Sergio: Some deputants today said that we should leave it to the open market and let the market find its place with respect to equity in the workplace. Others have said that we should leave it to the Human Rights Commission to solve disputes and complaints, stuff like that. It also has been said that the commission is inefficient, it's ineffective, and there is a huge backlog. In your experience, is that so, that the commission is inefficient and ineffective to deal with concerns?

Ms Bevan: I think experience has shown that the Human Rights Commission has been empowered through its resource base and its primary mandate to deal with complaints on a one-by-one basis. There has been some degree of consensus that individual complaints are not the most effective way of dealing with widespread problems.

There was some suggestion some years ago to look at things, as it's known, systemically or more broadly based, which has two advantages, in my view. It means that you don't have to reinvent the wheel over and over again with respect to the same problem. But also it takes the heat off, because rather than, "You are a bigot"—which is what can be inferred from a human rights complaint; it makes people very anxious to fight it because they don't want to be found to be a bigot—it says, "There might be something of which you are unaware in your system that creates a problem for you."

To use again the obvious example, job postings are the only way that jobs are announced. Unfortunately, that doesn't deal with people who are unaware of them for whatever reason, their sight and the like. So my simple answer is that to date there have been difficulties with the primary mandate of how the commission is to deal with complaints.

Mr Sergio: A voluntary plan could be made to protect the objectives of the equity plan?

Ms Bevan: I understand your question, but I need to get some clarification. We have to date not seen the details of any voluntary plan, so we're not in a position to judge whether that type of approach—

Mr Sergio: We haven't seen any plan either.

Ms Bevan: Correct—would be sufficient to address any problems of the kind you've described.

Mr Sergio: But do you think a plan without any government legislation would have any effect in the open market?

Ms Bevan: For the last 20 years, studies have shown that it will be extremely difficult to enforce human rights without some government role. I might go on much beyond 20 years, because human rights have been around in a legislated form for almost 60 years in this province, and there's a reason for it. I would note, although many people are unaware of it, that human rights legislation in its straight name, Human Rights Code, is not the only human rights legislation in this province. It's just the one with that title.

Ms Churley: I appreciate your comments on the destruction of the data. I keep telling Mr Clement that this is something that I think the government is going to have to give on. I've heard one group today not being sure, but nobody, on both sides of the issue, agrees about the data. It's good to have the clarification around the Human Rights Code, but also privacy laws protect information.

I wanted to follow up on the question of a volunteer plan. It's true that we don't have any information about what that would look like. Certainly, if our government thought there was some way we could make a volunteer plan work, we would have done that, but it became very, very clear to us after extensive consultation and years of studies and reports that this wasn't working, couldn't work.

I want to ask you, given that I have no doubts that this government will repeal this legislation, what kind of resources, both economically and otherwise, would this government have to put into some kind of volunteer plan to make it even begin to work?

Ms Bevan: Just a minute, please. I am here as a representative, so I like to consult with those who are here.

Ms Churley: I understand.

Ms Bevan: In terms of the resources, it's interesting that we are in effect almost revisiting the issue time and time again. There have been so many studies, many of which were documented at length 10 years ago and have been constantly updated to show that without enforcement, it's a hollow step. Human rights without human remedies are meaningless.

It's significant to me that at the very time that this government has chosen to remove itself from the field and go further than that, actually to prevent people using information that was collected under a prior regime—which is fine, which means it's pushed back to the Human Rights Code, to whatever degree of effectiveness it is—we have other jurisdictions which are strengthening this very approach because of the recognition that you have to have some teeth.

But having put that aside, the one thing that I've just said in response to Mr Sergio's question, which was, "Has the Human Rights Commission been able to be effective?" is I think it is common view, just the point I made, that it's going to take a lot more than a case-by-case response to a problem which is more than a case-by-case issue.

So in terms of assessing what kind of resources, I guess the first resource is a commitment that government

has a role to supporting human rights and making sure they're a reality. Once that role has been established, then the government in its wisdom will determine the nature of the resources that are necessary to support it.

You know what? It's very much like a goal and a timetable. You set a goal and then you commit some resources to it, and you set a time frame within which you want to achieve it.

Ms Elizabeth Mackenzie: Can I just add as well, in terms of talking about voluntary programs, and I know that you have heard from various people as well that businesses will do this because it makes good business sense and they'll do it voluntarily, that yes, there are studies that in fact this is beneficial to the bottom line. There was a recent article in the Management journal talking about four professors who used the CAPM financial econometric pricing model to show that stock prices rise for companies who have been found to have meritorious affirmative action programs down in the States, and they've linked that positively and economically.

The larger companies will be able to take advantage of that research and they'll be able to take advantage of that knowledge and expertise because they have the resources in place in their organizations both in terms of experts and in terms of money to hire experts in order to have them take advantage of that.

But who is going to encourage the mid-size employers who are some of our largest employers here in Ontario, who is going to encourage the public sector to also take advantage of that kind of knowledge and expertise? What kind of help are they going to get to understand that this is a bottom-line economic situation? In a labour pool which is very diverse, where we in Ontario cannot compete on low-cost labour, where we cannot compete with other countries based on a more homogeneous type of labour pool, the only thing we can do is to make sure that we use our labour force more effectively and more efficiently.

The Chair: On that note, thank you very much. We appreciate your being part of our process.

LEARNING DISABILITIES ASSOCIATION OF ONTARIO

The Chair: The next group to present is the Learning Disabilities Association of Canada, represented by Sharon Bell-Wilson. Good afternoon and welcome to our committee. You have 20 minutes to use as you see fit. Any questions at the end will begin with the Liberals. The floor is yours.

Ms Sharon Bell-Wilson: I would like to make one point of clarification as to Learning Disabilities Association of Ontario, not Canada.

First of all, good afternoon, everyone. The Learning Disabilities Association of Ontario is appreciative of the opportunity to speak to Bill 8 and would like to introduce a catchphrase for this presentation, "equity of opportunity to demonstrate merit," which I will talk about more in this presentation.

The Learning Disabilities Association of Ontario is a voluntary non-profit organization providing education and support and which serves as the provincial voice for persons with learning disabilities in Ontario. Learning disabilities affect some 10% of the population. In Ontario this means about 800,000 people have learning disabilities.

Learning disabilities are defined as a dysfunction of the central nervous system. Learning disabilities may be manifested by delays or difficulties in any of the following areas: attention, memory, reasoning, coordination, communication, reading, writing, spelling, calculation, social competence, emotional maturation. Learning disabilities are not related to intelligence, but rather affect the way in which a person takes in, remembers, understands and expresses information. The extent of learning disabilities varies from person to person in terms of having mild, moderate or severe functional deficits.

Learning disabilities, unlike many other disabilities, are invisible and generally not understood by the public at large. However, learning disabilities are one of the recognized categories of disabilities contained in the Ontario Human Rights Code.

While it is true that discrimination in the workplace is against the law under the Human Rights Code, persons with learning disabilities often face barriers at the point of hiring in terms of a general lack of understanding of learning disabilities. Without the appropriate legislation, sole protection against workplace discrimination for persons with learning disabilities under the Human Rights Code may be perceived as a somewhat hollow protection.

Webster's dictionary categorizes equity as being fair, impartial and just. Merit, on the other hand, means to deserve, to earn, or being of worth, value or excellence. Like all people, persons with learning disabilities seek fairness, impartiality, justice or equity of opportunity to demonstrate their value, worth or merit.

Persons with learning disabilities have long faced significant systemic discrimination, as was identified in the 1992 Report of the Interministerial Working Group on Learning Disabilities, of which you have a copy in your package. Employment equity, which was formally endorsed by the Learning Disabilities Association of Ontario in 1989, was seen as a positive step by persons with learning disabilities who believed they were finally afforded the opportunity to demonstrate their competence in the workplace.

Persons with learning disabilities are employable, but often not job-ready. This means that their tenure on the job is often measured in terms of months rather than years. Without many of the low-cost or no-cost accommodations such as assistive devices, job sharing and modified working environments, the accepted norm means continued short-term employment, continued barriers in hiring, training and promotion, unemployment, and continued dependence on social assistance, which is far more costly to taxpayers in the long run.

"Quota" is a word that for many conjures up negative connotations. The original employment equity legislation involved four basic steps: informing employees of employment equity principles and process; surveying the workplace to determine the extent of representation of the designated groups in the workplace; reviewing workplace policies and practices to identify barriers facing the

designated groups; development of a plan to remove barriers and work towards the creation of a workforce that is reflective of the community. These steps, similar to Bill 79 itself, contain no reference to quotas. What these steps contain and do support are many of the measures outlined in the proposed equal opportunity initiative.

While it may be reasonable to expect that the goals of equal opportunity can be realized without legislation, our population believes that an equal opportunity mandate which retains the following from the Employment Equity Act would subsequently benefit a broad spectrum of the population of Ontario. Such things are: accommodations; fair hiring and training practices; matching merit requirements with physical and cognitive demands analysis of the job; promotion of equity and diversity in all hiring.

In conclusion, a significant number of the 800,000 Ontarians with learning disabilities would prefer the opportunity to demonstrate merit on the job rather than continued dependence on social assistance. They are employable and, provided with the right combination of mandated equity and merit, many are in fact job-ready today. Why not give them this opportunity?

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The Chair: Time for some questions. You have roughly four minutes, to begin with Mrs McLeod.

Mrs McLeod: I guess the question I would like to ask, because I think you're dealing with a group of people facing disabilities that are just barely being recognized after 25 years of sweating it through—I'm getting to the point of age and involvement where I look back at the very early days of first trying to convince elementary school people, as well as physicians, that there was such an entity slowly working it through to secondary school, and I think some little progress in colleges and universities.

I'm just glancing quickly at the interministerial report; it's rather discouraging to see how much still needs to be done, even to acknowledge that it needs to be done, within the ministries administered by government itself. So when you say in your report that without many of the low-cost or no-cost accommodations etc you're looking at short-term employment, is there any progress at all in the workplace or are you still, from that perspective, at zero and that's the next frontier for you?

Ms Bell-Wilson: There is certainly some progress. It would be unfair to many employers to say that there is no progress being made. But the progress is very slow to come because one of the difficulties with persons with learning disabilities, as I try to talk about the range from mild to severe, is that there are also the variances in learning disabilities.

Oftentimes people will think of dyslexia, which is one of several different types of learning disabilities. There are others, such as the problems with organizational skills and the social skills, which oftentimes people don't think of as a learning disability. But interestingly enough it's probably the social skills which are the biggest barrier in the workplace. While the persons may certainly be competent, their level of social skills maturity, in terms

of knowing that you should not be this close to individuals when you're talking to them, makes it very difficult for them, obviously, in the workplace.

There's still a lot of education. We're plugging along as best we can, and we did produce a booklet in 1994 entitled Design for Success for Employers. However, with limited dollars we can only produce so many, and with limited human resources we can only get out to so many employers.

Mrs McLeod: There's so much emphasis on, and I think everybody would agree that in any employment equity plan there still has to be a recognition of, merit. I'm not even sure how to phrase the question other than I think one of the particular challenges in dealing with the learning-disabled is that their disability is not recognized and therefore it just seems as though they're not able to do the job. How do get past that?

Ms Bell-Wilson: The barriers for a person with a learning disability, obviously, start before they even get in the door, oftentimes, if they are lucky enough to get in the door. If they are measured or evaluated or reviewed, whatever terminology you wish to utilize, based on their ability or based on the actual job that they are performing—for example, if you take a person who is very proficient mechanically but cannot write, cannot read, look at their ability as it relates to what they were hired for, that mechanical aspect, not at whether or not they can fill out a particular form, because that he or she can't do. But there could be an accommodation that could allow for them to be able to do it. One of the most common is now called computers.

Ms Churley: I find this to be, personally, an interesting presentation because my daughter has a learning disability which was not identified until about grade 5, and I'm sure you're familiar with this aspect of it. She was so intelligent whenever her IQ was tested, from about 2 on—I get to brag about my daughter here for a minute—she used to score off sheets, as a young child, of the score card and got so good at hiding her learning disability and was so articulate and skilful in other areas that she hid it until about grade 5 or 6 and managed to escape notice, and by then didn't have the tools, in the areas where she had the disability, to go on. At a certain point it all caught up with her and then she ran into a lot of trouble and therefore, as a result, dropped out of school, which we're now having to find ways to remedy.

I wanted to ask you about that, in particular when you talk near the last part of your presentation about some aspects that are necessary to retain even if the Employment Equity Act isn't there as it is now: matching merit requirements with physical and cognitive demands analysis for the job and all of these things. I guess I'm mixing two things here, but these are the kinds of aspects, these are some of the things that happen to people with disabilities who have very clear abilities that get sidelined or overlooked because they're not caught in school and they don't have the ability to make up and accommodate and learn the skills that are necessary. How do you see that employment equity would deal with those kinds of problems?

Ms Bell-Wilson: We would hope that a type of legislation first of all would begin with employer and employee education, because I think a lot of the difficulties faced by a person with a learning disability in the workplace is the lack of understanding. One of the aspects from—I don't know what statute it's in right now—previous employment equity legislation called for disclosure, and you gave an example just in terms of your daughter and how much adults with learning disabilities have mastered coping. But at some point in time in the workplace that disability may be subject to exposure, let's say for example an opportunity for a promotion based on the work they are doing, and all of a sudden it may become apparent that while they could do certain things, they may not be able to do others.

Ms Churley: Yes, and I guess my next question would be, could you see this government putting some of the money it's taking out of the commission into some form of education and helping the employers help people with these disabilities? Would that be a good use of some of the money, towards education?

Ms Bell-Wilson: I think that would be a very good use. I would encourage them to seek out who are the experts before just putting up money and saying there's going to be training. I know as I have been doing, speaking about learning disabilities, I find that even those who are identified as experts could use some education. We like to think of ourselves as something of experts.

The Chair: Thank you very much. For the government party, Mr Tascona.

Mr Tascona: I just would like to ask you, in the area of hiring and recruitment and promotion, what can be done to improve or make the Human Rights Code more effective in terms of measures to be taken and remedies to address systemic discrimination?

Ms Bell-Wilson: I believe there is some education that is required at the Human Rights Commission level, and this is certainly not a negative reflection, but it's like anyplace else; all places need education. I suppose that like anyplace else, understanding that their workload is probably very heavy, not only in dealing with persons with learning disabilities but all kinds of cases that might go before the commission, one might want to look at beefing up the labour force a bit.

Mr Tascona: Do you think there's too much emphasis on investigation at the Human Rights Commission, rather than having a process that would have limited investigation and a more expeditious arbitration process?

Ms Bell-Wilson: I think it's a question, when you're talking about a lengthy investigation, of how long one might be talking about. Like anything, there is something called "reasonable." You're not expecting that this is going to go on months and months and months, because what you have very likely are fairly clear-cut two sides: You have the employer and you have the employee. We're not talking about starting from the day both were born in a little log cabin back in the 1800s. We're talking about something that happened over a short period of time, so therefore the "investigation period" should be equally short, but not eliminated.

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Mr Tascona: What's your opinion on the use of the data collected for the purposes of Bill 79?

Ms Bell-Wilson: We certainly were supportive of it back at that particular time. However, and I mention this in partial response to the previous question, with a learning disability, how do you identify? It's an invisible disability to begin with, so the question becomes, what is an employer actually to do: Go to each person and say, "Do you have a learning disability, do you have a learning disability?"

There needs to be an environment that is comfortable and safe enough for the individual to go to the employer and say: "My name is...and I have a learning disability. These are the accommodations that I require in order to be the most productive employee you could ever imagine. Does this work for you, Mr or Ms Employer?"

Mr Tascona: So you'd be a proponent of keeping the data, and perhaps if an employer were to implement employment equity or affirmative action under the Human Rights Code, they can collect those types of data also?

Ms Bell-Wilson: It's like anything else. When you talk about data collection, what becomes the purpose of the data if you're collecting data for collecting data's sake?

Mr Tascona: No, for employment equity, for affirmative action.

Ms Bell-Wilson: For what purpose?

Mr Tascona: The Human Rights Code allows for affirmative action.

Ms Bell-Wilson: Yes, but then for what? I'm still trying to force the issue of, for what purpose? I appreciate employment equity, but again, how are those data subsequently used?

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The Chair: Thank you very much for your presentation. Mr Tascona has successfully used up all of the others' allotted time. We appreciate your involvement in our process.

LAWYERS IN FAVOUR OF EQUITY

The Chair: Our next presenters are Laurel Broten and Catherine Vasilaros, with the Lawyers in Favour of Equity. Good afternoon, ladies. Welcome to our committee. You have 20 minutes to use as you see fit. If you allow time for questions they would begin with the NDP. The floor is yours.

Ms Laurel Broten: Good afternoon. I should first make an introduction. I'm Laurel Broten and this is my colleague Catherine Vasilaros. We are both lawyers in private practice, and this submission is made on behalf of lawyers who have diverse practices, who are all in support of equity and who oppose the enactment of Bill 8. It is not an official group; it is simply individual lawyers who wish to voice their concern.

First of all, why are we concerned at Bill 8? In our opinion, employment equity is a fundamental means of redressing systemic discrimination, and the repeal of employment equity offends fundamental notions of equality and justice. The failure to take positive steps to

redress discrimination indicates that we as a society are prepared to tolerate prejudice and discrimination. We wanted to take this opportunity to address the committee and express our views that we, as members of this provincial society, are not prepared to tolerate such injustices.

Our first submission is that the premise of Bill 8 is flawed, and today before you we advance two submissions. The first is with respect to the foundation of Bill 8, and the second, which Ms Vasilaros will address, is more particularly with respect to technicalities with respect to the drafting of Bill 8.

In our submission, Bill 8 is premised on a flawed conception of employment equity and its operation. As a result, the introduction of the act to repeal employment equity receives support from individuals who have not properly been informed about the goals, effects and objectives of employment equity. It is our submission that the premise of Bill 8 is based on myths and that accordingly, at the very least, the government should take the necessary time and steps to properly inform the public so that the true content and impact of employment equity may be considered by the community prior to taking the drastic action that is proposed in Bill 8.

When we turn our minds to how we might address and inform the public, it is our submission that you can educate and correct the misinformation by advancing what is employment equity and what is employment equity about. Employment equity is a fundamental means of redressing discrimination and is necessary to meet obligations placed upon governments pursuant to the Canadian Charter of Rights and Freedoms.

Employment equity was enacted to ensure fair and equitable treatment for all people and to accomplish this, the Employment Equity Act required that employers develop plans to remove barriers that adversely affect members of disadvantaged groups, groups which we know are protected by the Human Rights Code and the charter.

The Employment Equity Act set a standard that employers make reasonable progress—not overnight progress, not redress the discrimination in the past within months—but to make reasonable progress towards achieving the principles that employment equity set out in the legislation. These more particularly were that members of designated groups have the right to be considered for jobs, hired, retained, treated and promoted at work without facing discrimination.

Over time, every employer was to examine their workforce and at each level and in every job category try to ensure that this workforce reflected the representation of the designated groups within the community.

Every employer was required to put into place supportive measures to help recruit, employ, retain, promote and treat fairly all individuals within the designated groups.

These concepts are not difficult to understand and they are concepts which are the very foundation of justice and equality and equity within our society.

Employment equity is needed to address systemic discrimination against women, first nations peoples,

persons with disabilities and racial minorities, and systemic discrimination is subtle, complex, pervasive and requires a proactive approach such as that set out in the present Employment Equity Act. Simply, the goal of employment equity is to ensure that workforces mirror the composition of the labour market and, to accomplish that, proactive measures are required.

Employment equity does not mean hiring unqualified workers, and employment equity does not mean hiring only those within the targeted groups.

In our submission, the effect of Bill 8 and the act is to provide tacit government approval to institutionalized practices of discrimination. By replacing the Employment Equity Act with an equal opportunity plan, this government has already enunciated that it values, to some extent, employment equity and mirroring the community in the workforce.

It is our submission that the elimination of an effective equity scheme, which was carefully and conscientiously developed, will come at great financial and social cost to Ontario taxpayers, to be replaced with a similar scheme which has fewer enforcement mechanisms and is less effective. These enforcement mechanisms are crucial in that the only means of redressing systemic discrimination is to take a proactive and active stance.

Bill 8 is also out of step with modern concepts and approaches to achieving equality. First, the Canadian Charter of Rights and Freedoms expressly approves special programs designated to ameliorate the conditions of disadvantaged groups and recognizes the importance of the need for special programs to combat discrimination. Second, the goal of employment equity remains steadfast as a goal of the federal government, and Bill C-64, amendments to the federal Employment Equity Act, which is intended to widen the scope of existing federal employment equity legislation and to make it more effective, is already before the Senate and is anticipated to receive royal assent prior to the end of the year. Now, in light of this, in 1995, with the implementation of Bill 8, Ontario will be out of step with such progressive mechanisms and will lag behind in developing mechanisms to redress systemic discrimination.

I'll now turn the floor to my colleague Ms Vasilaros, who will discuss the technical difficulties.

Ms Catherine Vasilaros: I'm going to be dealing particularly with subsection 1(5) of Bill 8, which deals with the destruction of records. It's our submission that this particular provision is unworkable and unreasonable for a number of reasons. The first is, how is it going to be enforced? It has no teeth. Even if you were proposing—sorry?

Mr Flaherty: I said we should add that.

Ms Vasilaros: I would disagree.

Mr Flaherty: I thought you were going to suggest we should amend it.

Ms Vasilaros: No, I'm saying that there's no point in having it in the first place when any means of enforcing it would certainly be in contravention of individuals' charter rights and would be completely unreasonable, in our submission.

It's our position that saying you have to destroy records which have been accumulated according to the law for a valid purpose and using time, money and resources so that companies can do their best to promote equality and try to achieve very important goals I would say is completely unreasonable and, as I said, unenforceable. I can't contemplate how it could be enforced. Would people from different government agencies be sanctioned to come in and search companies' records? Obviously not. This is just a trust-based provision, in which case why have it at all?

The second reason we have a difficulty with subsection 1(5) is that you're going to be deterring companies that want to be proactive in eliminating systemic discrimination. These companies have taken the time and effort to accumulate these data and can use them on their own, even without the teeth of the Employment Equity Act. They can still make use of these data so as to set up their own programs and try themselves to promote equality in the workforce as best they can.

It's also important to remember that employees have given this information voluntarily. It's not as if people are being required to give up privacy rights or in any way have their own individual liberties trampled on. This is something that is done with the intention of promoting equity and there's no good reason to eliminate these records or call for their destruction.

I'd also like to point out that the section is inconsistent with the Ontario Human Rights Code, which requires that all relevant information dealing with a complaint be submitted to the investigating officers upon request. As I said, that's completely inconsistent. If these records are destroyed, how are they going to be submitted? I would submit to you that the Ontario Human Rights Code should take precedence in the situation as a higher law and as something of more importance than a subprovision of a bill which, as I said before, has no real teeth.

I'd also like to point out that the destruction of records could result in less evidence being available for human rights complaints, and that could cause problems for both the complainant and for the companies. When you have more records and are able to show, "Look, these are what are our policies are; this is how we do things; this is who we have employed; this is how we've treated people," then either an employee who has been discriminated against will have the evidence before him or her to show exactly what the company's policies are, or, in the alternative, the company will also have the ability to say: "Look, we've followed the rules; we've done our best. You can't come to us now complaining of discrimination. Here are our records to prove it."

So for all those reasons, I would say that subsection 1(5) in particular has a number of difficulties and we would submit that it should not be enacted.

I'm just going to deal briefly with a Supreme Court of Canada case which dealt with the issue of affirmative action and employment equity. That's at page 12; I'm just going to quote from it. It's the decision of the Canadian National Railway and Canada (Human Rights Commission). What this shows is that the idea of employment equity and the values and ideas and concepts which

it encompasses is not new and is something that has been sanctioned and upheld by the highest court in all of Canada. Therefore, I think that before quickly and very effectively in a short little bill getting rid of it in Ontario, we should be very careful and look to see what are the values, what did the Supreme Court say about this very important issue.

Mr Justice Dickson said: "An employment equity program thus is designed to work in three ways. Firstly, by countering the cumulative effects of systemic discrimination, such a program renders future discrimination pointless. To the extent that some intentional discrimination may be present, for example, in the case of a foreman who controls hiring and who simply does not want women in the unit, a mandatory employment equity scheme places women in the unit despite the discriminatory intent of the foreman. His battle is lost.

"Secondly, by placing members of that group that had previously been excluded into the heart of the workplace and by allowing them to prove ability on the job, the employment equity scheme addresses the attitudinal problem of stereotyping. For example, if women are seen to be doing the job of brakeman or heavy cleaner or signaller...it is no longer possible to see women as capable of fulfilling only certain traditional occupational roles. It will become more and more difficult to ascribe characteristics to an individual by reference to the stereotypical characteristics ascribed to all women.

"Thirdly, an employment equity program helps to create what has been termed a critical mass of the previously excluded group in the workplace. This critical mass has important effects. The presence of a significant number of individuals from the targeted group eliminates the problem of tokenism; it is no longer the case that one or two women, for example, will be seen to represent all women.

"When theoretical roots of employment equity programs are exposed, it is readily apparent that, in attempting to combat systemic discrimination, it is essential to look to the past patterns of discrimination and to destroy those patterns in order to prevent the same type of discrimination in future."

It's our submission that with roots such as this, the Supreme Court of Canada is stating that the objectives of employment equity are ones that should be upheld in our society, and the fact that the Supreme Court has recognized that discrimination is not going to go away in and of itself out of the goodness of people's hearts. We would submit that Bill 8 is inappropriate in the circumstances and should not be passed.

Ms Broten: I would now like to take this opportunity to discuss a few highlights of the Abella report, which was a royal commission report with respect to employment equity that was drafted more than 10 years ago. Similar to Ms Vasilaros's submissions, again this points out that we are not dealing with a new issue and we've been talking about this issue for a long time, trying to remedy this issue for a long time, and it's not remedied. So to think that Ontario will suddenly be able to resolve it without any active measures is a bit of a fallacy.

The highlights of the Abella report are found at pages 16 and 17 of our submission, and I'll just quote for you a few of the prominent sections:

"Remedial measures of a systemic and systematic kind are the object of employment equity and affirmative action. They are meant to improve the situation for individuals who, by virtue of belonging to and being identified with a particular group, find themselves unfairly and adversely affected by certain systems or practices.

"Systemic remedies are a response to patterns of discrimination that have two basic antecedents: a disparately negative impact that flows from the structure of systems designed for a homogeneous constituency; and a disparately negative impact that flows from practices based on stereotypical characteristics ascribed to an individual because of the characteristics ascribed to the group of which he or she is a member.

"The former usually results in systems primarily designed for white able-bodied males; the latter usually results in practices based on white able-bodied males' perceptions of everyone else.

"In both cases, the institutionalized systems and practices result in arbitrary and extensive exclusions for persons who, by reason of their group affiliation, are systematically denied a full opportunity to demonstrate their individual abilities. Interventions to adjust the system are thus both justified and essential. Whether they are called employment equity or affirmative action, their purpose is to open the competition to all who would have been eligible but for the existence of discrimination. The effect may be to end the hegemony of one group over the economic spoils, but the end of exclusivity does not reverse discrimination, it is the beginning of equality. The economic advancement of some minorities is not the granting of a privilege or advantage to them; it is the removal of a bias in favour of white males that has operated at the expense of other groups.

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"Nor should we be ingenuous in believing that once access is expanded the equal opportunity will translate into treatment as an equal. It is not enough merely to tantalize the excluded groups with the idea that the qualifying education and training by themselves will guarantee employment opportunities. Individuals must be assured that the metamorphosis includes equality not only of the access to opportunities but to the opportunities themselves for which their abilities qualify them. This is meaningful equality of opportunity.

"Equality demands enforcement. It is not enough to be able to claim equal rights unless those rights are somehow enforceable. Unforceable rights are no more satisfactory than unavailable ones. This is why we rely on employment equity—to ensure access without discrimination both to the available opportunities and to the possibility of their realization."

The Chair: Thank you very much. You have very successfully used your full 20-minute complement. We appreciate your involvement in our process and thank you for your presentation.

ONTARIO COUNCIL OF AGENCIES SERVING IMMIGRANTS

The Chair: The next presenter is the Ontario Council of Agencies Serving Immigrants, represented by Kay Blair and Maisie Lo. Good afternoon, ladies, and welcome to our committee. You have 20 minutes to use as you see fit. Questions, if you have time for them, will start with the New Democratic Party. The floor is yours.

Ms Kay Blair: Great. Good afternoon. I would like to thank you for the opportunity to be able to present to the standing committee on general government. My name is Kay Blair and I'm the president of the Ontario Council of Agencies Serving Immigrants. There are three of us here this afternoon. I'd just like to take a minute to have each one of us introduce who we are.

Ms Sharmini Peries: My name is Sharmini Peries. I am the executive director of the Ontario Council of Agencies Serving Immigrants.

Ms Maisie Lo: My name is Maisie Lo. I'm the chair of the OCASI policy committee. I also represent a member agency.

Ms Blair: Our presentation this afternoon represents the views of the membership of OCASI and the Ontario Racial Minorities' Organizing Committee for Training. ORMOCT is a provincial organization that addresses the issues of training and adjustment programs and the participation of racial minorities in the labour force.

We particularly want to talk a bit about the work of OCASI and to talk with you about some of the basic principles that we think should be included in the equal opportunity plan, also to be able to raise some concerns that we have regarding the introduction of Bill 8, which we believe repeals the essential elements of equity, and also to suggest to you some recommendations that we think you might need to consider in terms of the establishment of Bill 8.

OCASI's agencies provide a wide range of essential services to assist immigrants and refugees in the settlement and integration process. Our membership consists of over 140 organizations serving way over half a million individuals.

Our work is fundamentally based on assisting individuals in breaking down the barriers which often prevent immigrants from reaching their full potential as participants and contributors to Ontario's prosperity and vitality. Immigrants to this country do contribute to the economic growth, development and wellbeing of Canada. They bring a wealth of skills and talent which enrich the social, economic and cultural life of our country.

It is very clear today that Ontario is open for business. However, in order to move forward with this productivity and prosperity, we must use the skills of all Ontarians. Immigrants can provide the much-needed necessary linkages to enhance Ontario's competitiveness in a global market. However, barriers of discrimination, racism, lack of access to training and lack of recognition of professional credentials earned abroad limits the full participation of Ontario's immigrants and refugees in the life of the province.

Recent studies have actually documented the impact of discrimination on immigrants in the labour force. These studies have shown that immigrants experience marginalization, resulting in undue financial difficulties, and suffer emotional hardship. It is our belief that if Ontario is to truly become a prosperous and dynamic economic force, then all Ontarians must become contributors to the economy and become builders of a competitive society.

It is on that basis that we believe quite clearly that the guiding principles of any equal opportunity plan must focus on full and equal access for all Ontarians. It must also address mechanisms to eliminate systemic and institutional barriers. We see this as quite necessary because there's a huge body of evidence that exists which makes it quite clear that the merit principle which Bill 8 is based on has never been a prevailing force guiding Ontario's employment practices. What our history has spoken of is that it's not about what you know but whom you know that allows for access and participation to the point where you can begin to experience any kind of independence towards one's self-reliance.

The subject before this general government committee today is Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario. The concern of OCASI and its membership is the introduction of legislation to repeal job quotas that do not exist and legislation to restore a merit-based employment system that has never existed. We are left to assume that there appears to be a misinterpretation of the previous government's Employment Equity Act, which was intended to guide the establishment of practices of equal opportunity. However, in the absence of a detailed equal opportunities plan, it makes it difficult for us to understand its utility. We can only hope that it will embrace the guiding principles of equity and access.

At this time, what I would like to be able to do is to share with you some recommendations that we would like to form part of your consideration in terms of the establishment of Bill 8. Premier Harris, in his campaign, made this quotation, and I'll read it as it was specified at the time: "Failure to recognize the qualifications of people trained outside Ontario poses an employment barrier. A Harris government will work with licensing and certification bodies to ensure they incorporate access principles into their policies."

Given this statement made by the Premier, we encourage this government to embrace this thrust. If Ontario is to truly provide this province with an openness for business, we must work together to capitalize on the enormous wealth of talent, expertise and skills possessed by immigrants and refugees.

It is our recommendation that the provincial government promote and encourage the breaking down of barriers to access and accreditation by taking clear, measurable steps towards equitable access to trades and professions.

We also feel quite strongly that the role of the Human Rights Commission needs to be strengthened. An essential aspect of any equal opportunity plan must be revitalized in the Ontario Human Rights Commission.

It is our recommendation that the provincial government take steps to make the commission an effective and expedient enforcement body with a strong focus on equal employment opportunities.

Skills training and work experience are critical to the participation of our community. The provision of high-quality and accessible employment development services is critical to achieving equity in the workforce.

Therefore, it is our recommendation that the provincial government promote and encourage appropriate language training, vocational counselling, employment skills training and work experience programs to ensure equal opportunity in employment.

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Affirmation of voluntary measures is critical for us. We have seen where we have tried to work with a voluntary system and that has not created a level playing field where we've had equitable participation in the workforce. Bill 8 has caused some degree of confusion for employers who wish to continue to work towards equality. The federal government's Employment Equity Act and contract compliance programs are still in place.

It is our recommendation, therefore, that the provincial government clarify that volunteer equity policies are still permissible and necessary and also encouraged.

That really speaks to the whole notion of the data that have been gathered. Bill 8 indicates that the information gathered should then be destroyed. We think that it is quite significant. It is indeed a marketing tool and it assists in terms of workforce diversification.

A service to employers is very critical. We believe that many employers need consulting services to advise on qualitative measures to ensure non-discriminatory and equitable employment practices are in place.

It is our recommendation therefore that the provincial government promote non-discriminatory measures that would enable equity practices in the business environment.

Most important of all for us is that the provincial government launch a public education campaign that focuses quite clearly on the importance of non-discriminatory practices, that the leadership from the provincial government is critical to ensure that we're here committed to full and equal participation of all Ontarians.

Therefore, OCASI recommends that the equal opportunity plan include a concrete action plan to fulfil Premier Harris's commitment to moving ahead with education against discrimination, towards full and equal participation of all Ontarians.

In looking at Bill 8, what we see is that there are two guiding principles that we need to embrace. Bill 8 needs to allow for full and equal access to all Ontarians and it should address mechanisms that eliminate systemic and institutional barriers. I believe that the task ahead of all of us is to develop cooperative, creative and innovative strategies to ensure equal access to employment, education and sustainability for all Ontarians.

We strongly support the revitalization of the Human Rights Commission with a strong focus on enforcement to guide the implementation and monitoring of this plan. Our goal as volunteers and professionals working with the community organizations across Ontario is the development of a harmonious and prosperous Ontario.

Contrary to some beliefs, immigrants are not a drain on the system. We're all taxpayers. We want to work, we want to contribute and succeed in building a more competitive Ontario. However, the presence of systemic and institutional barriers denies us this opportunity. We're at a stage as members of designated groups where we experience a complete loss of faith in the system. We have not experienced where the application of merit principles has advanced our participation in the workforce.

It is on this premise that we come to this committee today to appeal to your sensibilities in the development of an equal opportunity plan that embraces true equality for all Ontarians. It is our belief that for us to experience full prosperity, it has to be a plan that embraces all Ontarians, not a focus on the ones who are privileged and accustomed to having access. It has got to be recognized that in this society there is not true equality and that unless there is legislative action to allow for the recognition of people who have been done wrong in the past, then we will never experience equality. So it is up to this government, in its commitment to equal opportunity, to develop a comprehensive plan that is going to address the participation—full participation—of all Ontarians.

The Chair: Thank you very much. We now have the almost insurmountable task of having just two minutes each for a quick question, starting with the New Democratic Party.

Ms Lankin: Thank you, Mr Chair. That was well done, by the way.

Most of the groups that we have heard from today and over the course of the last two weeks of the hearings as colleagues have been around the table listening have said many of the same things you did: that the name of the bill is a misnomer; that there weren't quotas in Bill 79; that there wasn't a merit process that was in place that benefited people of many groups.

In fact, the Canadian Federation of Independent Business was here earlier today and although it made reference to the previous legislation as perhaps one could say or presume it might have been a quota, in the educational material they sent out to their members they said very clearly: "It is important to understand that numerical goals are set by the employer according to what is reasonably achievable. Allegations that the legislation requires you to hire unqualified people are not true. There are no quotas. There are no requirements to hire unqualified people." This is the Canadian Federation of Independent Business to their member organizations. Now, they said something a little bit different when they were here today, but that's what they sent out.

I guess my concern is that even though we're hearing over and over again from groups like yours that the very premise of the legislation that's being brought forward was a myth, a misconception about the previous legislation, that this government will in fact move to repeal the legislation, I think you're right to focus on, what are they going to replace it with? We heard Miss Bassett say earlier that there isn't yet, but will be, a concrete plan in the new year.

You talked about what's needed. You talked about training programs that are accessible. I put to you that training programs are being cut back. You talked about the need for—

The Chair: Come to a question, Ms Lankin. You're not leaving much time for the answer.

Ms Lankin: I'm getting to it very quickly. You talked about the need for a concrete action plan to fulfil Premier Harris's commitment to moving ahead with education against discrimination. All of these things take resources and in the fiscal situation where we see that part of the reason for doing away with the commission is to get that \$9 million out of the expenditure plan of the government, I'd like you to address for us, what are the concrete resources that are going to be needed to have a program of education that does get out to employers and to have sufficient skills-training programs that do allow people access and do allow people the kind of equal opportunity—meaningful—that you're talking about?

The Chair: I'm going to have to interrupt this. I did warn you that there were only two minutes. We're well over the time, so unfortunately there's no time to answer the question.

Mr Flaherty: Thank you for your presentation. I must say that some of the items that you've mentioned, particularly strengthening the role of the Ontario Human Rights Commission and skills training and work experience programs and affirmation of voluntary measures, are matters that we support along with you. I think there's a matter of principle that my constituents spoke to me about during the election campaign and it's this: There's a concern among people of all religions and races and backgrounds in Ontario about what people often call merit. We know, and I think you'll agree, that education is the key predictor of later occupational achievement in Ontario, and the matter of principle I want to raise with you is mandating results.

When I look at paragraph 2 of section 2 of the act to be repealed, which says, "Every employer's workforce, in all occupational categories and at all levels of employment, shall reflect the representation of aboriginal people, people with disabilities, members of racial minorities and women in the community," that is mandating results and that's the objection I think as a matter of principle that many people in Ontario have to it; that is, we are not taking education into consideration, we're not taking work experience into consideration and we're taking matters into consideration that, with respect, we ought not to take into consideration.

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In my work on behalf of African newcomers, in another life as a lawyer, I remember a high commissioner saying to me, from one of the African countries, very proudly, "In my country, we know no colour." And with respect, I think that's a goal towards which we should work in this country, and this kind of legislation, this

statement of principle here is dangerous. What are your views on that?

The Chair: Again, I have to interject. With only two minutes, folks, if you don't keep the questions brief, there's no time for an answer. Ms Pupatello, are you going to ask questions?

Mrs Pupatello: I have a couple of questions I'd like you to comment on, please. I have a couple of things if you could comment on. A gentleman was in here earlier, Martin Loney, and he suggested that, in particular for women and women of minority groups, it's not an issue of discrimination in terms of the workforce; what it is is there aren't many in that group who have the educational level that compares to others, and that in fact is the issue. So in fact he contended that there isn't really discrimination; it's education, and there just aren't many of them who are educated to the same level as a typical white male. I'd like you to comment on that.

Also, you commented in your report that the accreditation system for new immigrants is a critical factor in being underemployed, and I agree. Do you think the equal opportunity plan that's going to come in is going to address that and you'd want it to, and with this equal opportunity plan, what teeth do you suggest ought to be in place, because I think the proponents of it are suggesting it be completely voluntary?

Ms Blair: A couple of comments to what you have just indicated.

Mrs Pupatello: Quick, quick.

Ms Blair: If I just touch very quickly on the skills of immigrants. I think Canada has the most skilled taxi drivers in the world. There are PhDs driving around in taxis. It is not about a lack of education. It's not about a lack of skills. It's about a recognition of the skills and talents that we bring to this country, that there is a missing formal system that recognizes our professions that we bring to this country. Our governments have invested in us, and Canada and Ontario can capitalize on that investment.

The Chair: Thank you very much for your answer, and my congratulations to Ms Pupatello for getting her question in. She gets the gold star. Thank you very much, ladies. We appreciate your being part of our process.

Ms Blair: You mean we're finished? The Chair: Yes, you are finished.

Ms Blair: Great. Thank you for having us.

The Chair: Twenty minutes goes by quickly, doesn't it?

Ms Blair: I just want to say a couple of things, that I really do hope that—

The Chair: We've been pretty strict on the 20-minute time limits, so unfortunately, I'm going to have to say thanks very much.

Ms Blair: Great. Thank you for having us.
AFRICAN CANADIAN LEGAL CLINIC

The Chair: The next group is the African Canadian Legal Clinic, represented by Philip Pike, who is a staff lawyer there. Good evening, Mr Pike. You have 20 minutes to use as you see fit. Any time that you leave for

questions, we'll start with the government. The floor is yours, sir.

Mr Philip Pike: Good evening and thank you. As the Chair has indicated, my name is Philip Pike, and I'm the staff lawyer at the African Canadian Legal Clinic.

My formal comments are going to be actually quite brief, and perhaps I'll use some of my remaining time to respond to a question that Mr Flaherty put, even though he's now left the room.

The African Canadian Legal Clinic was established in 1994 to address anti-black racism and other forms of systemic and institutional discrimination in the justice system, in education, employment, housing, health and in many other spheres of Canadian society.

While the primary strategy for carrying out the work of the clinic is test-case litigation, the clinic is also interested in monitoring government policies and initiatives and assessing whether or not those policies or initiatives might have an adverse impact upon the members of the African Canadian communities.

The formal comments that I want to make are directed to two areas: First, it's to the nomenclature of the act and, second, to the issue of policing. Ms Lankin has pretty much summarized the comments that I'm going to make, but I want to say that the bill in question has been titled An Act to repeal job quotas and to restore merit-based employment practices in Ontario, and I think that this title is an affront to the people of Ontario, and more particularly to those who are members of the designated groups under the employment equity legislation. I believe it is a fraudulent misrepresentation of the employment equity scheme that was set up under the act.

The purpose of the data collection under the act was to identify and explain underrepresentation of qualified available candidates from the designated groups. The areas of underrepresentation would then be examined for the barriers to employment. Employers would then seek to work together to develop plans to eliminate those barriers and to set goals and timetables for increasing representation from the designated groups. The goals and the timetables were to be set by the employers themselves, and in certain cases where employees were organized, together with the employees.

The goals and the timetables were not imposed by government, and it is my understanding that employers were not subject to a fine if the goals were not met. They were simply required to make reasonable progress towards their own flexible goals that were set. Therefore, I think it's disingenuous and indefensible to refer to the Employment Equity Act as a job quota law.

Mr Flaherty, in his question to the previous group, quoted from the act and talked about the fact that it said "it shall reflect." It was his interpretation that this mandates results. With all due respect, I don't think that is the case. My understanding of the legislation was that it was to set the goal to move towards reflecting the workforce in the community.

Mr Flaherty also talked about education. I think implicit in his question and the way he framed it, from my point of view, is a belief that we're operating from a

level playing field. Certainly, if we're going to be hiring people based on their qualifications, based on their abilities, based on their merits, but who are underrepresented in the workforce, then I don't see any conflict between a merit-based principle and the objectives of the act.

If one assumes that there is in fact not a level playing field, that not all groups in society, not all individuals, have access to equal amounts of resources in terms of training and educating themselves and preparing themselves to participate in the workforce, then one has I think also to recognize that one has to examine those barriers and see how those barriers can be removed.

The second area in which I would like to make comments relates to the area of policing. Policing is an area of particular concern to members of the African Canadian communities.

In 1988, following a series of police shootings, some of which resulted in the death of or serious injury to young African Canadians, there were many demonstrations and a great deal of activism by the African Canadian community.

As a direct result of this agitation, the Attorney General for Ontario established the Race Relations and Policing Task Force, the Clare Lewis task force. The task force mandate was to address promptly the very serious concerns of visible minorities respecting their interaction with the police community.

One of the recommendations made by the task force was that police forces adopt employment equity policies to ensure that the forces were more reflective of the communities they serve. This recommendation was later adopted and incorporated into amendments in the Police Services Act.

Since 1990, police services in Ontario have indeed made progress towards a workforce that more accurately reflects the communities that they serve. This progress towards a representative workforce has been, I believe, an integral part of community policing. It is a fact that public confidence of African Canadians in policing increases with the diversity of community policing. It is a fact that the public confidence of African Canadians in policing increases with the diversity of the police. Indeed, many members of the African Canadian community support the principle of community policing, and I believe that Bill 8 would therefore strike a real blow to the notion of community policing.

I submit that police forces and their hiring and promotion systems must continue to be made accountable to the public through the continuation of employment equity planning. While we are opposed to the entire contents of Bill 8, I would implore you and I would recommend that you leave intact the employment equity provisions in the Police Services Act.

Subject to any questions you may have, those are my submissions.

The Chair: We have about three and a half minutes per team, starting with the government.

Mr Young: Thank you very much for your excellent presentation. I'd like to ask you a question that gets to

the crux of the matter from our viewpoint, which is the hiring process, hiring and promotion. If you were a human resources manager or a personnel manager and you interviewed 20 people for, say, four positions, and you had the résumés, the work records and the whole evaluation process, and you laid them all out and put them in order of who you'd like to have first on the job, but your boss had said to you that morning, "Hey, we're not complying with section 2.2 of the Employment Equity Act; you'd better get your numbers up for visible minorities and women," would you start at the top and hire the best person for the job or would you go down the list and pick somebody who was a member of one of those minorities?

Mr Pike: I think the way the question is phrased, and I say this with respect, is somewhat misleading because again it takes us back to a situation where we're looking at the legislation as simply a numbers game. I disagree with that.

I think under the scheme that was set up under the legislation, the way the scenario you pointed out would have worked is, was there anyone of those 20 who was qualified for the job but is also part of an unrepresented group? Because if you look at the community in which that employer is located, let's say there are 100 people in the community, 25 or 30 of them are going to be from the designated groups. The point of the legislation is, are there barriers within that employer that has not allowed qualified people from those groups to be part of that workforce?

To answer your question directly: I would look at the 20. I would see if there is anyone who is qualified. If they're also a member of the target groups, wonderful, they have the job. If not, my understanding of the way this scheme works, the employer would not meet that goal that year, but perhaps it would be a continuing effort later down the road to meet the goals that were set.

The Chair: Another minute over there. Any other questions? Mr Tascona, a minute now.

Mr Tascona: The question is that what we've been hearing here is that the legislation was needed and that you needed it in place with a fine so that you could have a hammer to ensure that the employment equity goals and the objectives were achieved. That's what we've been hearing. So maybe we have an interpretation difficulty here in terms of what your interpretation is and what other groups have been interpreting and that we interpret this as indeed there being a hammer to ensure that legislation is enforced. If your interpretation is correct, why would we need Bill 79?

Mr Pike: I stand to be corrected by those who are experts on Bill 79, but I know, for example, that one of the criticisms of even the groups who were militating in favour of the enactment of Bill 79 was indeed the fact that it did not have enough enforcement provisions. As I say, while I stand to be corrected, my understanding is that the goals were not mandatory in the sense that there were fines or penalties to be imposed if those goals were not met. They were simply goals for the employer to work towards.

Mrs Pupatello: I wanted to ask you about your thoughts on the equal opportunity plan that we have yet to see. We don't know its content, but it will in all likelihood come about some time and this bill, Bill 8, will surely pass. What is your thought in terms of how effective it will be?

Mr Pike: I think any equal opportunity plan which in any way backtracks from the high water mark that we were able to achieve in Bill 79 is really not going to be effective. It's hard to sort of respond to something without having—

Mrs Pupatello: You talked about the importance of education and that component, and clearly whatever plan is going to come focuses almost entirely on that. So if the government then thinks that is going to be the seed, all of sudden we'll have all of this equity growing out of this plan—

Mr Pike: Indeed, because education is simply one part of the picture. The other part, and the more important part and the bigger part, is those barriers. Let's not kid ourselves. The barriers have very little to do, in most cases, with education. Education is important because the playing field is not level, but part of what makes the playing field not level is the systemic barriers which are there. I think the comments that the previous presenter made with respect to the taxi drivers are an example of that. Here you have people who are qualified, so certainly education isn't the problem. The problem is, how do they get over those barriers which are in place?

Mrs Pupatello: In other words, this plan, whatever it is and whenever it comes, will likely do absolutely nothing.

Mr Pike: Indeed.

The Chair: The New Democratic Party, Ms Lankin. Ms Lankin: You're quite right, in fact, about the fines. The fines that were in the previous legislation were not attached directly to failure to meet goals or objectives; there was a flexibility there. There was a \$50,000 fine for non-compliance with the active role, if you didn't attempt to collect data, to put in place a plan. Members opposite often confuse that when they talk about the fine and relate that to quotas.

The act will be passed; I think we have to accept that. I wish that people would be listening to the vast majority of presenters that have come forward, but I believe it will be passed. I hope that they'll consider amendments to the name, only because it's so offensive, but also to the data provision.

What I'd like you to take your time to address is, in the voluntary plan, that concrete plan that members opposite say will be coming some time down the road, what aspects have to be in place to give us any hope that that voluntary plan will accomplish something in the province?

Mr Pike: If we accept that what we're dealing with is a voluntary plan, I think it has to be transparent and it has to be accountable. It's simply not good enough that we put in place a voluntary plan which employers may or may not buy into if there's no accountability, if there's

no openness, if there are no standards by which their participation can be measured. But then it boils down, really, to nothing. You really have nothing left if you have a voluntary plan where there is no accountability. So I would say that a major part of that has to be accountability, has to be some method where we can go in and say: "What is your progress? How do we measure this? How have you indicated that you're actually providing equal opportunity?"

Ms Lankin: Do I have time for a follow-up? Yes. That's very important to hear. That sounds to me like collection of data. It sounds to me like establishment of goals and some measurement of whether goals are being achieved. So it sounds to me perhaps like the legislation that was in place without legislation in a voluntary approach, and anything short of that is going to not meet the elements that you've set out. Now, I may have misinterpreted that, but I would ask you to respond.

Mr Pike: No, that's precisely it. Without that, we're back to the regime where it's wide-open and where there is no protection. There's no protection of employment equity or there's no protection under equal opportunity. So it has to have some measure. It just doesn't make sense otherwise. It really defies common sense. I think,

therefore, yes, you do need to have some sort of data collection, or else how do you measure the program? How do you assess your goals and what you've achieved?

The Chair: Thank you very much, Mr Pike. We appreciate your involvement in our process and your presentation tonight.

Mr Pike: Thank you for the time. Good evening.

The Chair: Okay, a little bit of good news: Our last presenter has not been able to make it, so we're through for the evening.

Just a couple of little housekeeping notes before we leave: Expense reports have to be returned to the clerk as soon as possible. The agenda for Monday has been handed out. You'll notice the committee room is 228, which is upstairs. It's not in this room; it's upstairs, 228. Anything that is important to you, please take with you. All right, Mr Young?

Mr Young: I hear you, Mr Chair. Thank you.

The Chair: My thanks for your cooperation. It was a long day and your cooperation made it go very smoothly. Thank you very much.

The committee adjourned at 1730.







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Monday 27 November 1995

Standing committee on general government



Journal des débats (Hansard)

Lundi 27 novembre 1995

Comité permanent des affaires gouvernementales

Job Quotas Repeal Act, 1995

Loi de 1995 abrogeant le contingentement en matière d'emploi

Chair: Jack Carroll Clerk: Tonia Grannum Président : Jack Carroll Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 27 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Lundi 27 novembre 1995

The committee met at 1002 in committee room 1.

JOB QUOTAS REPEAL ACT, 1995

LOI DE 1995

ABROGEANT LE CONTINGENTEMENT
EN MATIÈRE D'EMPLOI

Consideration of Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

The Chair (Mr Jack Carroll): Good morning, folks. We're a couple of minutes late, but it is time to begin. Welcome, everyone, to our committee proceedings. Just a note: If caucuses have their amendments ready, could they please submit them to the clerk as soon as possible, and certainly by no later than 1:30.

Mr Bernard Grandmaître (Ottawa East): That's 1:30 today?

The Chair: Today. They must be in two hours before we begin clause-by-clause. Any later than that would cause a delay, so I'd appreciate your support on that.

The synopsis of the last two days of hearings is currently being copied and will be available to you soon.

MIRIAM WYMAN

The Chair: That having been said, our first presenter this morning is Miriam Wyman. Miriam, please have a seat there. Welcome to the committee. You have 20 minutes to use as you see fit. Any time that is left in that 20 minutes for questions will be shared among the parties and would begin with the official opposition, the Liberals. The floor is yours.

Ms Miriam Wyman: Good morning, everyone. My name is Miriam Wyman. I'm a member of the public, I am a woman—part of 52% of the population—a taxpayer, a parent and a worker.

I work to involve members of the public in making environmental decisions about projects and issues in their communities. I have been doing this professionally and also as a volunteer for 20 years.

From 1990 to 1993, when I was president of the Women and Environments Education and Development Foundation, I worked on Agenda 21 with members of Canadian non-government organizations, as well as with representatives of women's organizations from around the world. Agenda 21 is the blueprint for the 21st century created by the United Nations Conference on Environment and Development. It promotes cooperation between governments and all the major groups in society in creating healthy environments and healthy economies.

Canada took a leading role in negotiating Agenda 21, and I was proud to be part of the Canadian delegation and proud of the commitments to women that Canada promoted and that the federal government endorsed at the Earth Summit in Brazil.

In September of this year, the Fourth World Conference on Women took place in Beijing. At this conference, delegates endorsed the Platform for Action, which establishes a global agenda for achieving women's equality by the year 2000. This conference affirms the universal nature of women's human rights and fundamental freedoms. It sets out a strong action plan to eliminate violence against women, and Canada responded to a call from the UN to develop a national action plan for gender equality, a plan which outlines specific commitments on the advancement of women's health, economic and cultural equality, reduction of violence and access to decision-making at all levels in our country.

Canada's rhetoric in the international arena is not being met by actions at home. A major research study was conducted in preparation for the Beijing conference to examine the progress made here on a range of women's issues since the Nairobi conference in 1985. This study demonstrated that women in Canada still do not hold decision-making positions or management positions or executive positions in anywhere near the numbers that we are in the population. Just last week, a senior United Nations official stated that Canada is violating the human rights of children by failing to ease child poverty and by cutting social programs that already are insufficient to meet many children's basic needs.

Many women, as well as people with disabilities, aboriginal people and racial minorities, continue to face discrimination in employment, both in finding appropriate training to access employment and then in finding and retaining meaningful work. Employment equity legislation addresses this built-in or systemic discrimination. It means that when those who have been traditionally marginalized or barred from participation stand to advance, then we all, as a society, advance.

The Employment Equity Act signalled that people in Ontario were willing to face head-on issues of equity in the workplace, to take bold steps to resolve these issues and to be inclusive rather than exclusive. I'm here to say that the repeal of the Employment Equity Act contravenes Canada's commitments to women—commitments made and endorsed in international arenas as well as in our houses of government—and ensures that systemic discrimination, faced by too many people in Ontario, will persist.

I also want you to know that I am offended and outraged by the language used in describing Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario. This language is malicious; it is a willful distortion of employment equity; it denies that systemic discrimination continues to take place in Ontario; and it is wrong.

This language implies that the Employment Equity Act would have brought quotas to the workplace, which it does not, and it implies that employment equity would undermine merit-based principles. These words are doublespeak. We do not have, nor have we ever had, a system based on merit, unless you really believe that only white men'should have jobs.

We have a long tradition in Canada and in Ontario of creating legislation to redress entrenched inequities. I remember, and I hope you do as well, that until the 1950s there were quotas on the number of Jewish students admitted to Ontario universities. Women teachers could not continue to teach after they were married. Women could not enter the professions. Governments recognized that they could not rely on voluntary change, and legislation was created and debated to respond to the need for change.

The Employment Equity Act similarly recognized the need to create conditions favourable to what is indeed merit-based employment in Ontario—the opportunity to ensure that all qualified people have equal access to employment, to promotion and to training for employment. Recognizing and supporting the enormous potential of all of all of the people of Ontario would really be a commonsense revolution.

Legislation protects all of us. It gives us clear, comprehensive ways to collect and verify information and it enshrines a right to appeal, and it makes government accountable to the public, to those who are governed.

1010

I also object to the nature of the consultations on the proposed changes to the Employment Equity Act. First of all, "limited consultations" are inadequate—and please replace in my text "limited" for "selected." A limited number of people were informed that any consultations were taking place and we had little notice. Consultations are being held only in Toronto and deadlines for response are extremely tight. I learned of these consultations on the morning of November 8. I had until 4 pm that day to convey my interest in appearing before you. Only with broad and meaningful consultation can legislation meet the needs of the majority of people in Ontario.

Secondly, these consultations, such as they are, are premature. People are entitled to information about the equal opportunity plan that is proposed as a replacement for the Employment Equity Act. We are entitled to know what is being planned so that our advice can be thoughtful and helpful.

In September, while the media paid little attention to the accomplishments of the Beijing conference, people in Ontario were faced daily with the horrors of the Bernardo trial. As if this did not adequately demonstrate the pervasive threat of violence against women in our society, we are also faced with this government's funding cuts to social services, to counselling for perpetrators of violence, to day care, to training and, later this week, to universities and colleges. It's hard not to see this as a virtual war on women, and it's hard not to conclude that this government's intent is to do the most harm to the largest number in the shortest time.

I encourage you to support efforts that policymakers have made over time to redress fundamental inequities in our society and not to repeal the Employment Equity Act. Without equity there is no equality, without equality there is not justice, and without justice there can be no democ-

The Chair: Thank you very much. We have about three and a half minutes per party left for questions, beginning with the official opposition, Mr Grandmaître.

Mr Grandmaître: Your message is very clear that you don't believe in the merit system that existed for the last, let's say, 40 or 50 years. This bill would really protect you to improve the conditions.

You're absolutely right when you say that the government's intention is to repeal this bill and to replace it with something else that we haven't seen yet. I've asked the parliamentary assistant to table the six-plan program, but this is due in the next two or three or maybe four months, I really don't know, and I don't think the parliamentary assistant knows about this new plan.

Do you believe that the Human Rights Commission can replace Bill 8?

Ms Wyman: I don't know enough about how the Human Rights Commission operates to fairly answer that question. I do understand that there is an enormous backlog presently in that situation, and it's not easy to see how adding a load to that commission would improve the situation.

The government, if I'm not Mr Grandmaître: mistaken, told us that more dollars would be invested in the Human Rights Commission to get rid of this backlog and give them more powers. But I agree with you; I don't think the Human Rights Commission can replace this bill. I'm not saying that the bill was perfect but I thought we were on the right side of eliminating discrimination.

You've been a volunteer for the last 20 years, did you say?

Ms Wyman: Yes.

Mr Grandmaître: On this issue?

Ms Wyman: I work professionally on environmental issues, and my volunteer work, through the United Nations Conference on Environment and Development, was as a volunteer member of a non-government organization working to prepare the documents for that conference, and working to ensure that the language in them was strongly supportive of women's role in environmental management, and the need for women to be equal partners in environmental management and in all decision-making related to environment.

Mr Grandmaître: You've heard the Chairman, just before our meeting started, tell us to bring in our amendments before 1:30 this afternoon. What would be one of your amendments?

Ms Wyman: Amendments to Bill 8?

Mr Grandmaître: Yes.

Mr Rosario Marchese (Fort York): Repeal, repeal, repeal.

Ms Wyman: My recommendation would be to repeal Bill 8.

The Chair: Okay, the New Democratic Party. Mr Marchese, do you have a question?

Mr Marchese: Yes, I do. Thank you, Ms Wyman, for your presentation.

I wouldn't hold my breath with respect to the plan they have. My view is that their zero tolerance re discrimination is just something that's on paper and means nothing. Their view on equality for all sounds good, but it means the same discrimination as we've had in the past. I'm making statements so you can respond to them later on.

My view is that this voluntary thing they have with employers will not work. That's what we've always had.

My view is that they say they want the private sector to do these things in their own way, nicely and so on, and they will work with them. Now, can you imagine a government that says, "We need the private sector to do it all," to get out of their hair, that somehow they're going to do something with them to deal with an issue like this? How could they do it? How could they put resources in there to make this happen when this government says, "We don't have any money"? How could they say, as they said in their plan before the election, "We're going to redirect the \$9 million for the"—what are they getting rid of?

Mr Grandmaître: Bill 8.

Mr Marchese: No. They were going to redirect dollars, approximately \$9 million for the Employment Equity Commissioner, and redirect that to the Human Rights Code. They dropped that reference from the notes they all have, the briefing notes that I saw on the job quota garbage they put together. They won't put any money into human rights because they can't, they don't want to, because they don't have any money and because I really believe they don't believe in it either.

They say they're going to reform the Human Rights Commission to deal with this issue. What are they going to do with that? I have a sense of what they're going to do, and that is, if nothing, then they will encourage the Human Rights Commission to speedy up the process of dealing with them in a way that we will throw more out than actually dealing with them, because that's what we're seeing. We're seeing a pattern where more and more cases are not being dealt with through one section of the Human Rights Code that allows them to speedy that up. Other than finding a way to make that happen, they're not going to do anything.

So the Human Rights Code doesn't deal with systemic discrimination, which Bill 79 did. The Human Rights Commission and code does not deal with them except on a case by case. It is not proactive, it's reactive, meaning you have to wait for someone to complain until the human rights deals with it. That's the job of the human rights. They can't change that. They don't want to change that. They don't want to make the human rights deal with systemic issues, because that's what we tried to do with Bill 79. So what are they going to do?

So I don't have a question because I think you've answered them, but if you want to react to my statement, please do.

Ms Wyman: I guess what I would like to say is that over the last number of years in Ontario we've come to look to our governments—and I'm not referring only to the last five years; I'm saying over the last 20 years or so—to be proactive and to take important stands on issues that concern members of the public and society. It's very hard for me to see how this government is being proactive in ways that benefit the largest number of people in Ontario.

The Chair: For the government, Mr Clement and Mr Stewart next.

Mr Tony Clement (Brampton South): Thank you for your presentation, Ms Wyman. I take it from your remarks that you don't believe that a merit system currently exists in Ontario?

Ms Wyman: I believe we are making great strides towards implementing a merit-based system in Ontario and that the Employment Equity Act is an important step in making that work even better.

Mr Clement: But you said in your presentation that the merit system did not exist in Ontario prior to Bill 79. Are you amending that now?

Ms Wyman: No. I think that it was merit-based within a particular segment of society. It was not merit-based across all of society.

Mr Clement: I don't mean to be insulting, but isn't that a bit offensive to those persons from the designated groups who actually do have jobs in the economy? My wife is a lawyer. Are you saying she wasn't hired on the basis of merit?

Ms Wyman: No, that's not what I'm saying at all. What I'm saying is that for the most part the jobs that were available were allocated in particular ways to people who have historically held power in this province. Changes have been taking place over the last number of years, but they have not been taking place very quickly and they have certainly not been taking place commensurate with the changes in the demographics in this province.

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Mr R. Gary Stewart (Peterborough): A couple of questions. Your appointment or inclusion in Agenda 21 and the Earth Summit in Brazil: Were you included in that because you are a woman or because you had the ability to be part of those organizations and contribute to it?

Ms Wyman: I was included because I was a woman and because I had the ability and because I was willing to make the time in my life to do that.

Mr Stewart: I would think, though, that with the amount of time that you've spent on environmental issues over the last 20-some-odd years, a great deal of that would be on merit and ability.

Ms Wyman: I would hope so.

Mr Stewart: I would hope so too. The other one I guess is just a concern on one of the comments you

made, that back in the 1950s women could not enter the professions. I'm surprised at that comment. I had a mother who was a nurse, and I thought she was a very professional lady, and many of the folks in the town that I'm from, women, have held positions in professions. I think making a comment like that tends to be a rather broad brush where I think it may not be totally true.

Ms Wyman: It was pretty plain what the admissions regulations were in medical school, dental school, law school, engineering schools in the 1950s with respect to who was admitted and who was not.

The Chair: Thank you very much for being involved in our process. We appreciate your attendance here this morning.

PEEL MULTICULTURAL BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

The Chair: Our next presenter is from the Peel Multicultural Business and Economic Development Committee, Zubair Choudhry, who's the chairperson. Welcome to our committee, Mr Choudhry. You have 20 minutes to use as you see fit. Any questions will start with the New Democratic Party. The floor is yours, sir.

Mr Zubair Choudhry: Thank you very much, Mr Chairman. I have a little cold, if you will excuse me if I cough.

Mr Chairman, respected members of the standing committee, ladies and gentlemen, it is indeed a great honour for me to submit my views in response to a very important piece of legislation, Bill 8. This bill, when passed, will repeal job quotas and will restore merit-based employment practices in Ontario.

There is no question that every aboriginal person, every person with a disability, every member of a racial minority, and every woman is entitled to be considered for employment, hired, treated and promoted free from discriminatory barriers. This is a basic human right for all citizens that must be embraced and protected in all aspects of society, including employment. It is certain that the majority of the Canadian society strongly believes in this principle. Therefore, it is paramount that any employment equity initiative must focus on the elimination of prejudice and discrimination.

Unfortunately, the approach taken in Bill 79, the employment equity legislation, was unilateral and has not benefited the designated groups. Being a member of the minority, I believe that these designated groups have been singled out from the mainstream society, because Bill 79 has been used as a threat to employment opportunities to other Canadians in society. As a result, Bill 79 has heightened awareness of the differences, leading to boost separation of the groups from mainstream society and leading to increased conflict and hostility.

I personally believe that all Canadians have the right to be treated equally regardless of faith, colour, language or gender, and we have that right under the human rights act. We all know that Canada is one of the best places on this planet to live. In order to maintain and to enhance the good image of our country, we cannot afford to have an act which may promote reverse discrimination.

The elimination of prejudice and discrimination requires fundamental social change. The provincial government must realize that social change of this nature will not happen overnight, as it involves the development of understanding and respect that is built gradually over a period of time. It requires change in attitude, and such change cannot be legislated through numeric goals.

In the third paragraph on page 3 of Bill 79, it is stated, and I quote:

"The people of Ontario have recognized in the Human Rights Code the inherent dignity and equal and inalienable rights of all members of the human family and have recognized those rights in respect of employment in such statutes as the Employment Standards Act and Pay Equity Act. This act extends the principles of those acts."

I do not understand, Mr Chairman, when the equal rights of an individual are legislated in those acts, why another Employment Equity Act.

It is also required under Bill 79 that "Every employer's workforce, in all occupational categories and all levels of employment, shall reflect the representation of aboriginal people, people with disabilities, members of racial minorities and women in the community."

It is highly questionable whether this principle is practical or even desirable. It is unrealistic to expect that the principle of equal representation in employment could ever accurately represent the diverse aspirations and qualifications of the people in our communities, a diversity that should be respected and encouraged, not outlawed by any Employment Equity Act. By expecting employers to set numeric goals and timetables based on this principle, we are virtually forcing them to fit square pegs into round holes, an exercise that will be detrimental to the employees and employers in this province.

We are agreed that somebody identify the disease of discrimination and prejudice that exists, but the prescription to this disease is not right. We cannot give the heart patient a medicine for cancer. In many instances, an employer may be forced to hire lesser qualified staff to meet the quota system imposed by the employment equity legislation. At the same time, it is not fair to a qualified candidate to be deprived from employment opportunities because he or she could not fit into the quota system. Even when a well-qualified, suitable person is hired from a designated group, he or she may be perceived as if he or she was hired due to the quota system. This perception will be degrading and humiliating for such an individual.

I strongly believe that if a change in attitude is to take place which will truly eliminate prejudice and discrimination, all groups in the society must have the opportunity to prove themselves on the same terms and with the same standards of performance. This is really what a society free of discrimination is supposed to represent. By specifically permitting preferential treatment in employment for any single group in the interests of meeting a set of artificial goals, Bill 79 is sending a message to all of the members of the designated groups and the rest of the society that they cannot compete fairly for a job and earn a position or promotion based on their merits. Bill 79 is a very dangerous step and a complete contradiction with the objective of elimination of prejudice and discrimination.

The Employment Equity Act has forced employers to change the selection process but has failed to change the way people feel towards each other and act in situations that may not be covered by the legislation. The Employment Equity Act should not be an end in itself. It must be a means to an end, and that end must be social change if we are truly going to promote a society where everyone can participate as a full member of the society, free of prejudice and discrimination.

The private and public sector employment systems in this province are a poor vehicle for relieving the hardship or economic disadvantage of members of the designated groups. Not only did this Employment Equity Act add to the increasing administrative burden of provincially legislated requirements, it also created economic crisis in every organization due to the requirement of employment equity compliance. In addition, the inevitable productivity losses associated with hiring less qualified employees may promote social resentment and chaos. At a time when Ontario's economy is trying to sustain a fragile recovery from the recession, it is necessary to repeal job quotas and restore merit-based employment practices.

I believe the existing Employment Equity Act is not an appropriate solution to prejudice and discrimination in the workplace. I urge the present government to strengthen the Human Rights Code to eliminate prejudice and discrimination in the hiring process and to promote an equitable and fair process which will satisfy all the members of the province but not only the designated groups.

In conclusion, I support Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario.

The Chair: Thank you very much. We've got about three minutes per party for questions, beginning with Ms Churley.

Ms Marilyn Churley (Riverdale): Thank you very much for your presentation. As you may well know, I'm Marilyn Churley with the NDP. I was part of the government when we, after extensive consultations across the province and after study of the Rosalie Abella report and many, many other reports, came up with this legislation.

What is interesting to me is the whole use of the word "quota" and the difference in opinion on that. Certainly I recall, and Mr Marchese even more than I—he was very active in developing this legislation—that there were many from the designated groups who asked our government to impose quotas. We didn't do that and consequently some of the spokespeople for the designated groups were very angry at us. So we're getting it from both sides, which I find very interesting. It is not a quota system, it is numerical goals, and I really strongly object to that interpretation of it.

Having said that, however, you've made your position very clear and I appreciate that. You've also made your position clear that you know there's a problem, as most people admit. You've suggested that the Human Rights Code be strengthened to deal with it. What I'd like to ask you is, especially in this economic climate and with what this government is doing for its tax break and to deal with the deficit, what advice can you give this govern-

ment to make sure that the Human Rights Commission—what kind of resources are needed, for instance? What do they have to do to make sure that many of the wrongs out there in the hiring practices that now exist can be corrected?

Mr Choudhry: I personally believe that due to the economic hardship which we are going through now in this province of Ontario it is very difficult to impose on the businesses, because I'm a business manager and I know, and I don't want any government to come and butt into my business and tell me whom I should hire and whom I should not hire.

I think the government should create an atmosphere where the businesses can grow, less and less regulation and less and less legislation, so the business community can create economic activity in our society. Then people like me and people like designated groups can go and get a reasonable and good job, and that creates job opportunities. We are looking for employment opportunities, not an employment quota system.

As you said, the objective was not a quota system. On page 28 of Bill 79, in subsection (2), it says, "A regulation governing the content of employment equity plans may require plans to contain numerical goals determined in the manner prescribed by the regulation." So it means there is a provision already in this act, Bill 79, which can extend the power for the commission to go out and dictate to businesses to set a quota system and to hire somebody who is not suitable for a job but may be from a designated group. From my perspective, it is not fair for me to get a job, or I will not accept that job, where it could be perceived that I got that job because I was from a designated group.

The Chair: Thank you very much. For the government, Mr Young.

Mr Terence H. Young (Halton Centre): Thank you very much, Mr Choudhry. I appreciate your presentation very, very much and I agree with your position. I'd just like you to maybe qualify or explain it a bit further.

The kind of society I want to live in is one where the society at large and the governments are colour blind, and I just don't see this legislation as leading that way. I see this legislation as entrenching, whether you call it numerical goals or quotas, whatever, a huge bureaucracy and creating a whole outside bureaucracy, private business in employment equity. Would you agree with that? Can we get to a society that's colour blind with legislation like this?

Mr Choudhry: I personally believe that what government can do is to strengthen the human rights act. In that act they can set up a policy where each job in this province or each job in the private sector, when it is created, must be publicized, it must be advertised. When you have a job, you have a job description and you advertise the job, so it means you have opened up the process.

What was there before, the process was not open. I give credit to the previous government that Bill 79 has brought awareness of the problem, but the solution was not right and I completely disagree. Bill 79 is not the way to go. Problems exist, but there should be a way where we can all have equal opportunity and equal rights.

I don't want to see any friend of mine who may be white, or maybe we have French or maybe English, to perceive that I got this job just because I am not white and I'm not French and I'm not English. I don't want just that.

The Chair: Mr Maves, can you ask a quick question? You've got one minute.

Mr Bart Maves (Niagara Falls): Yes, quickly then. On page 3 you talk about whether "the principle of equal representation in employment could ever accurately represent the diverse aspirations and qualifications of the people in our communities...." Are you trying to say here that the previous government assumed that all people in these groups wanted to work in all of these occupational categories and that that assumption is misguided?

Mr Choudhry: I believe it is very difficult to define or to make clear the situation of how you can have equal representation. It all depends on the job-to-job, single case-to-case basis and it's very difficult to generalize that we will have the people from each community or each designated group to be represented in a workplace where it is not possible, depending on the qualifications and depending on the experience of an individual on a case-to-case basis.

For one single job in a private sector company where they are looking for a Chinese cook, they should not hire a Chinese cook because they cannot have an additional Chinese person because they have already too many Chinese staff? They should go and look for some British cook or a French cook? It doesn't make sense at all.

The Chair: Thank you very much.

Mr Choudhry: You're welcome.

Mrs Lyn McLeod (Fort William): Mr Choudhry, I appreciate your concerns about numerical goals and targets, and I agree that we have to look very closely at the means by which the ends of employment equity are achieved. So I'd like to set that aside for a moment and take you to the broader issue of barriers that in fact exist out in many other workplaces; I assume not in your own place of business.

But as you look at other workplaces, do you believe that there are barriers to that equal opportunity that you've just talked about, and if you do, do you think the Human Rights Commission can ever deal with what might be called systemic barriers as opposed to outright blatant discrimination?

Mr Choudhry: Yes, I strongly believe that the human rights act can be strengthened, can be reformed, can be amended by putting in there the equal opportunities for any person who has been discriminated from a job. He should go there and make a complaint, and the human rights—I think that can do it.

Mrs McLeod: So if I just take one example of a systemic barrier, it might be the availability of language training, for example.

Mr Choudhry: Yes.

Mrs McLeod: Would you think then that an individual who feels that the reason they've not been successful in their application for a job was lack of language training, that that individual could go to the Human Rights Commission, make the claim that there is systemic discrimination and then the Human Rights Commission

could order government to deal with it by providing language training programs? Do you see that as a legitimate role for the Human Rights Commission?

1040

Mr Choudhry: Yes. I think now you're talking about a different problem, not an employment problem. The language problem—if I go to Saudi Arabia and I don't speak Arabic, how can I do work there if they don't have such a system that I can speak English and work? The same thing is here. If somebody comes from, say, China and cannot speak English or somebody comes from a part of the world and can't speak English properly, how can that person go and work effectively and efficiently at a job when it requires that language should be one of the criteria to such a job?

I am not saying that all the jobs require languages, but there are some jobs that do require that the language should be appropriate and should be spoken and the person should have a vocabulary of that language. That depends on a job-to-job basis. I personally believe that instead of having another act of employment equity, the human rights act can do it.

The Chair: You have 30 seconds. Have you got a quick one?

Mr Bruce Crozier (Essex South): Okay, on page 5, you say the Employment Equity Act "failed to change the way people feel towards each other." Do you think Bill 8 does that?

Mr Choudhry: Can you repeat your question?

Mr Crozier: On page 5, the second paragraph, the first and second sentences, you say the Employment Equity Act "failed to change the way people feel towards each other." Do you think Bill 8 does that? If it doesn't, how can we?

Mr Choudhry: I am saying Bill 8 is just to repeal Bill 79; it's not offering anything.

Mr Crozier: Thank you. You needn't say any more.

Mr Choudhry: That's what it is. But the next point, what I am suggesting is that we should strengthen the Human Rights Code, which should bring up this issue to be resolved.

The Chair: Thank you very much. On that note, we're a little tight for time. We appreciate your attendance here this morning and your interest in our process.

Mr Choudhry: Thank you very much.

DONNA LaRUSH

The Chair: Okay, next, we'll have to skip down a little bit, Donna LaRush. Donna has actually been waiting since Friday night to talk to us. We apologize for not being here when you got here on Friday night, Donna.

Ms Donna LaRush: Well, I'm sorry I was late. I had problems at work.

The Chair: You have 20 minutes to use as you see fit. If you leave some time for questions, they would begin with the government. The floor is yours.

Ms LaRush: I want to thank you for giving me the opportunity to address this committee. I wanted to speak to you on a personal basis about the reasons why I am opposed to Bill 8. I'm very much opposed to Bill 8 because I feel employment equity must be legislated. I've

been a firefighter for almost seven years. I have overcome some barriers, and I face discrimination on a daily basis in my workplace.

The Ontario Human Rights Commission is an ineffective means of dealing with systemic discrimination in the workplace. Discrimination does exist, and barriers must be identified and eliminated before there is going to be an increase in the numbers of designated groups in the fire service and other places that are predominantly male. A process driven by individual complaints is very ineffective and difficult on a complainant, and it's very unfair for the person complaining, who's driving the system. Proactive legislation is the only solution.

Traditionally, most firefighters had fathers, close friends or relatives who were firefighters. The only ones who got the jobs were the ones who knew someone or who belonged to the right club. Over 98% of all firefighters in Canada are white men.

Before being hired as a firefighter, I achieved an honours chemistry degree, I was awarded High School Athlete of the Year and I worked as a fitness instructor as I put myself through university. Hard work enabled me to get the job as a firefighter, and because I was the most qualified, I got the position.

Obviously, I was different from all the other firefighters. I was the first woman hired by the city of York. There were no washrooms, no change facilities. Unlike the men, I was required to prove my strength over and over and over as others watched. I was constantly criticized, and many watched me critically, looking for me to make mistakes. I was told there was no place for women on the fire ground, and many of the people working with me lobbied to oppose the hiring of women firefighters. Some men refused to work with me. I was isolated and I was repeatedly reprimanded. I had no support, no encouragement from my employer, from the union or from the people I work with. No one told me that I was being hired to work in a hostile environment.

I filed a complaint with the Ontario Human Rights Commission almost five years ago, and I'm still waiting to see if they intend to do anything about my complaint. The intake officers discouraged me from filing the complaint and as a result forced me to hire my own lawyer.

Several years after filing a complaint, two investigators were assigned to my case. The investigation was long and drawn out. The investigators concluded that the workplace was poisoned and my employer had not accommodated me, but nothing was done about it.

This very lengthy process has become personally very exhausting and expensive. I have been forced to fight against my employer and to fight against my union in order to receive the same as my coworkers. I have been repeatedly punished for complaining and I have been labelled as a troublemaker.

I just wanted to mention some of the shortcomings of the Human Rights Commission. The existing Human Rights Commission has many shortcomings. It does not deal with the complaints in a timely, effective manner. The Ontario Human Rights Commission will not enforce their own Ontario Human Rights Code.

There are definite barriers to entry for women and minorities. These barriers should have been removed long

ago. Identification and elimination of barriers through an individual complaints-driven process is slow and very difficult on the individual complaining. I have suffered professionally, emotionally, financially. I have become very sick as a result of these problems.

In conclusion, I would just like to ask that this committee leave the existing employment equity legislation in place. Employers must provide a barrier-free workplace through proactive measures. The Ontario Human Rights Code must be forcefully enforced for all legitimate complaints in order to globally deter discrimination on any level. I would ask also they consider reforming the Ontario Human Rights Commission.

The Chair: Thank you very much for your presentation. We have some time for some questions, about four minutes per party, beginning with the government.

Mr Maves: Good morning. First of all, congratulations for being a ground-breaker. Sorry that you had to face things you've had to face as a result of being a ground-breaker, though.

If more people from the designated groups were hired as firefighters in order to reach numeric goals, as in Bill 79, do you believe that they'd still face the problems that you have faced and still do face?

Ms LaRush: No, I believe that if they hired a larger number of people from designated groups we individually would not have to suffer the way we have. The way it is now, there are like 16 in all of Ontario, and most of us have had the hardships that I have. Hiring in a larger number would certainly make it easier for us few.

Mr Maves: So a quick influx of people from the designated groups in each and every force?

Ms LaRush: Yes, as well as education before and preparing the scene before we get there and support from other people if there is a problem.

Mr Maves: That leads to my next question. It says in your presentation that you "continue to experience discrimination daily." Short of Bill 79's numerical goals, how can we change these attitudes? You've touched on it a little bit by pre-education, but how else can we change these attitudes so that people don't have to continue to face that discrimination?

Ms LaRush: So they don't have to continue?

Mr Maves: Yes.

Ms LaRush: Well, if the Ontario Human Rights Commission worked. I mean, as far as I'm concerned, right now it's so difficult to get them to even respond. I asked them to respond to the simplest thing, like I don't have a shower, and I've waited for five years to have a shower. I've been discouraged by the Human Rights Commission to complain, and they do not do anything and they do not react. If they only would enforce the existing code in a timely fashion with all complaints. You know, it seems very simple. I thought that's what they did until I personally was involved.

Mr Maves: Have you met with certain people who since you've been there have seen how qualified and good you were at your job, and have their attitudes changed at all, some of them, just from the process of having you there and seeing on a day-to-day basis that you can do the job?

1050

Ms LaRush: I have had such a difficult time that, like I said here, I have been labelled as a troublemaker and a complainer and things because I have complained about things like no washrooms and the abusive things that are said and done about women. I personally don't find there's a whole lot of support. People aren't really looking at my strength any more. They're not looking at how fast I can climb the stairs and that I can haul 250 pounds. It hasn't seemed to have been something that people recognize about me.

Mr Maves: So you being there showing your worth hasn't seemed to change their attitudes.

Ms LaRush: No. They had an attitude before I came that there was no place for women on the fire ground, and because they have had that attitude, they have just built that attitude stronger and stronger.

Mr Maves: So despite your qualified presence, that hasn't changed the attitude.

Ms LaRush: No.

Mr Maves: So how better, just besides presence of the four designated groups, could we change those attitudes?

Ms LaRush: Well, there's all kinds of ways. Like we had a diversity training last week. That was a great idea. Some education before, some planning, some preparation, you know, even in a public way, showing women doing extrication and doing rescues out of high-rise apartment buildings and things. There's all kinds. I could write a paper on taking down the barriers. There's all kinds and I just couldn't talk about all the things in four minutes or whatever. I'd be happy to talk to you personally if you are ever interested in the ways—

Mr Maves: Yes, I would like to know.

Ms LaRush: —of taking down the barriers in the fire service, because you could write a book.

Mr Maves: Yes, we've had many-

The Chair: Thank you, Mr Maves. He did not leave you any time, Mr Young.

Mrs McLeod: I'd like to give you that opportunity. I wish we had the time, because I think you come from a field where the application of the idea of employment equity is perhaps more difficult than in any other single field and I think we could learn a lot from your experiences.

I also thought you had quite effectively answered the question I put to the last presenter in terms of the difficulty of the Human Rights Commission, even if it is strengthened, in responding to the systemic barriers concerns. I think the nature of the concerns you ran into that you would want the Human Rights Commission to look at because you had no other recourse—if that was happening from every workplace, it would be virtually impossible for the Human Rights Commission to respond or to have any teeth in being able to deal with it afterwards, plus the fact you've said, "Do you really want to deal only with discrimination after it's occurred," which I think is a very valid point.

I know you could write a paper on it and we could spend hours with you, but maybe I could ask you just to say a little bit more about your sense of whether you can deal with the barriers to employment equity in the firefighting area without numerical goals and targets and whether or not numerical goals and targets in fact could be a problem in ensuring that the merit principle was in place in the firefighting force or do you think they're necessary.

Ms LaRush: I could deal with firefighting without there having to be numerical goals. The difficult thing is the attitudes. The attitudes are going to persist no matter what. They feel I was hired because I was a woman and they don't care what particular legislation is in place.

The way I understood Bill 79 to be was like the fire service, the unions as well as the chiefs as well as employment equity, were all supposed to look at the barriers and identify the barriers and decrease the barriers, and I think that's a terrific plan. There's no better person than the unions for—I don't see anything wrong with Bill 79. It was just all about identifying barriers and eliminating barriers, and the people who knew the most, it wasn't—I know the government was enforcing the legislation, but it was the unions and the employers that were actually doing the work of identifying the barriers and lowering them. Did I answer your question?

Mrs McLeod: Yes, you did, because you had spoken in your presentation about the need for government to be proactive and what I hear you saying is that there needs to be a very proactive plan to deal with the barriers.

Ms LaRush: There has to be a reason why, because they will not identify barriers if they don't have to. It's been, you know, for how many years, and we still have 98% white men in the fire service? It will continue to be that way unless it is legislated.

Mrs McLeod: I know this is a difficult question to answer because it's kind of speculation: If the numerical goal became the focus, so that the goal was to see 40% of the firefighting force female, that could add to the problem you've had of people perceiving that you got the job because you were female?

Ms LaRush: Well, I had the problem and I was hired seven years ago, before employment equity. I can't ever see that they would hire 40% women, because of all the reasons: some women don't apply for the job; some people don't like physical work, right? So there would never be 40% women hired. So the fact that that goal is there, I don't see that as being a problem for the women who did get on, personally.

Ms Churley: Thank you very much for coming down and presenting to us this morning. I could tell in your presentation that this has been a very, very difficult personal experience for you, and I think we all really regret that you had go through such a hard time. As one of my Conservative colleagues said, congratulations on your achievement. I think down the road there are going to be many women who are going to be very thankful to you for what you've gone through on their behalf.

I wanted to come back to the fact that, as you stated, this is a case, an individual case, that to me is a very clear example of why we need employment equity, that the Human Rights Code will not be able to deal in a proactive way in situations like yours, which means that individuals, even if the money is put in and the Human Rights Code is beefed up and some of its mandate

changes, will still take personal tolls on individuals and won't be able to deal with the systemic barriers.

I just wanted to ask you a question about—I'm certain that many of us have spoken to male firefighters in our own ridings who felt very much opposed to employment equity because they perceived that they would have to end up hiring—and I hear this, as I'm sure you do—women, who don't have the physical strength to do the job and therefore put their lives in danger when you're out in the field. I'd just like to know what you have to say to that and how you respond when that's put to you about being forced. I know that isn't what it's all about, but there are many who believe that: forced to hire people, women, who don't have the strength to carry out the job.

Ms LaRush: The qualifications right now to become a firefighter have never been as difficult as they are, the fitness testing, the things that we have to go through. Firefighters never had to do fitness tests in the past. You know, 90% of the people I work with never did a fitness test, nor could they stand beside me and prove the strength the way I do.

I realize it's an attitude, it's a perception, it's what they are telling the public. But the other side of the argument: Why don't we get tested every year to see who has the strength and who doesn't have the strength, if it comes down to strength. They haul me out of a building; I'll haul them out of a building.

There's really no truth to what they're saying. I can see that they're nervous. It's a perception, again. Let's go on national TV and prove that we can carry a 200-pound person out of a building, if that's what it takes.

Ms Churley: So what you're saying is, women have to pass that test too and there may be some overweight guy still acting as a firefighter who hasn't been tested who doesn't have your strength but hasn't been tested. Is that what you're saying?

Ms LaRush: There's many who have never been tested. The testing has only been in the last five years that they've been going up to York University and doing that high level of tests. So how can they tell me I don't have the strength when they've never been tested? Anyway, that's just an aside, you know?

Ms Churley: Well, that's what was important to clarify, because there is that misconception.

Ms LaRush: And it's really difficult working in that room. I work with 14 men who all think their life is in danger the moment I walked in the door. I find that personally insulting.

Ms Churley: Yet you passed all the tests.

Ms LaRush: I've had to prove it over and over and over that I can do it, and they never had to prove that they can do it.

The Chair: Thank you very much. We appreciate you taking the time to come and be part of our process.

BLACK BUSINESS AND PROFESSIONAL ASSOCIATION

The Chair: The next presenter is on behalf of the Black Business and Professional Association, Michael Lecky. Welcome, sir, to our committee. You have 20 minutes to use as you see fit. Any time you allow for

questions, the questions will begin with the Liberals. The floor is yours, sir.

Mr Michael Lecky: Thank you for giving us the opportunity to share with you our opinions about employment equity. Before I go any further, I'd like to give you a brief background of our organization, the BBPA, to enable you to understand who we are and why we are here this morning.

BBPA is one of the largest and oldest black business and professional associations of its kind in Canada. It is 14 years old, and our primary goal is to promote equity of access in social, economic and political areas for members of our community. In other words, we would like to level the playing field, which is what employment equity is all about. We were part of the coalition which worked tirelessly to encourage the NDP government to introduce the most progressive employment equity legislation, which you have just repealed.

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Having been involved in the consultation on Bill 79, and given the blessing for its implementation, we feel that today would have been a day to begin to take stock of the progress being made and look at where we would be in the year 2000, but instead, we're here to commiserate the demise of what we had worked for so hard on behalf of all Canadians: to ensure that the available qualified human resources would be utilized regardless of their colour, race, gender, sexual preference, disability or country of origin. This is what Bill 79 was designed for, and that's what we fought for and won.

You recall that when your government announced its intent to repeal the legislation, in our press release we said, "Repeal of Employment Equity Law: A Step Back in Time." We would like to confirm to you now that we still hold the same position and stand by our statement.

You have called Bill 79 "job quotas" and you wish to replace it with a "merit-based equal opportunity program." We do not know, nor do we understand, why you think Bill 79 was job quotas. It is not and was never intended to be because:

- (1) There was no quota system infused in the bill.
- (2) You have not proven to anyone that, in practice or in theory, quotas had been introduced.
- (3) We're not aware of any hiring that was done to suggest that there were quotas. If there are examples, then we would appreciate hearing from you on them.

This legislation was the only vehicle for dealing with and eliminating systemic issues, such as culture, race, gender, language etc, which have been used to deny employment to minorities, women and the disabled.

Equal opportunity programs have not worked in the past and will not work in the future, because they do not deal with systemic barriers. To us, equal opportunity programs are like selecting a jury for a case whose verdict is already sealed in an envelope.

We are concerned that without a meaningful employment equity program in this province professionals in our community would have a bleak future, as we are already seeing in the current layoffs in the civil service. The axe is falling on a number of those very few minorities from our community who were beginning to make a career in the civil service.

It is pointless to list the number of studies or surveys on discrimination in the workplace or in hiring practices that have concluded that blacks and other minorities experience more discrimination. This is not new; these studies have been published and your government is aware of them. We are speaking about a community that has been surveyed and studied to death. This community has benefited very little from these studies, I might add.

So our concerns are real and are known throughout Canada. We are speaking about a community that is in double jeopardy because these conditions do not affect adults only, but children too. Last week, a survey by Dr George Dei, entitled Dropout or Push Out, revealed shocking results about the dropout rate and the racism and discrimination black students experience in our school system.

For us to be involved in any consultation of your new equal opportunity program, we would like to be assured that:

- (1) You will provide us with an explicit definition of your proposed program and how it differs from Bill 79.
- (2) You will state what elements of Bill 79 you are prepared to consider.
 - (3) There is an open forum and process.
- (4) You will be willing to listen and consider our views. As citizens of this country, we are socially, economically and politically valuable to this society. Our contribution has been immeasurable in all areas, and it is for this reason that we call for a level playing field.

We are not asking for something that we do not deserve. What is good for minorities is good for every Canadian. Employment equity is good for all Canadians, but equal opportunity is not. Unless it eliminates systemic discrimination, unless there is a way of monitoring accountability, unless it's measurable to determine outcomes, it will not serve the people of Ontario.

Ontario is one of the major ports of entry to Canada and it is also the engine of the economy of Canada. Its diverse population, racially, culturally and ethnically, is a major contributor in terms of fostering foreign trade, investors etc.

Most minorities, especially in our community, own small businesses which provide essential services to Ontarians. To not protect and utilize the talent that this diversity brings with it is to ignore the reality of the society we live in.

How do we protect the resources we have? We protect Canadians by ensuring that equity programs are not just voluntary, but that government requires that they be done. Therefore, we are suggesting that you make it mandatory. Anything that is not mandatory is voluntary. Therefore, the government should not be wasting time discussing trivial programs that are intractable and unmeasurable.

We feel that if the speed limit and seatbelt legislations are mandatory, then having mandatory employment equity legislation makes sense as well. All these and other legislations deal with different forms of safety and security. There must be goals and timetables to ensure that progress is being made and also for the government to determine whether the program is working.

We thank you for giving us this opportunity to share our opinions with you.

The Chair: We have about three and a half minutes per party, beginning with the opposition.

Mr Grandmaître: Thank you for your presentation. Looking at the title—if I can call it the title—of your remarks, "The Employment Equity Consultation Committee," I want to assure you that we are not that committee. We are here to simply repeal Bill 79. You say that you've worked hard to come to an understanding with the government on Bill 79.

Mr Young: Point of order, Mr Chair: We are not here to repeal Bill 79 totally. That is not the sole purpose of our committee, I don't think.

Mr Grandmaître: That's what the bill says. It's Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario.

The Chair: Excuse me a second, Mr Young. Mr Grandmaître has the floor. We haven't been interrupting up till now, so I'd appreciate it if you allow him to keep the floor. Go ahead, Mr Grandmaître.

Mr Grandmaître: So you would like to participate in this new program that the government will be introducing later on, the new equal opportunity plan. Can I ask the parliamentary assistant to guarantee that they will have the same opportunity to work on this new equal opportunity program as the public had on Bill 79? Can anybody from the government answer this?

The Chair: You're going to have to wait. Do you want to carry on and then we'll get him to answer?

Mr Grandmaître: That's my question for the time being.

Mr Crozier: My question was very related to it, so Lyn, if you do have one—

Mrs McLeod: Surely. A couple then, quickly. When you talk about mandatory versus voluntary programs, I assume that you're saying there needs to be a legislative approach, that even if you get to consult on a plan, if that plan is not in legislation you feel that it will not have the kind of force that it needs?

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Mr Lecky: I think it will take legislation, yes, to give it that force, because I don't believe that you can voluntarily eliminate discrimination in the workplace. We have seen it very clearly. We worked on the York city council to have it change its hiring practices with the firefighters and we saw the emotion that was evident from the firefighters as they spoke about the fear of reducing the standards in the fire department. We know that it's deep, it's entrenched. It's something that needs force. It needs people to recognize that it's the law and that it must be done, that we have to level the playing field and we cannot afford to simply sit by and depend upon people's goodwill to seek the best talent in our society, because we need it as a country. We need to make sure that we hire the people who can do the job.

Mrs McLeod: Can you—

The Chair: Excuse me, Mrs McLeod. Did we want this question answered?

Mrs McLeod: Perhaps if I just finish this. Can the Human Rights Commission deal with the barriers?

Mr Lecky: No, I think the Human Rights Commission doesn't have any teeth. We feel that it has proven in the past not to be effective in terms of dealing with these types of issues.

The Chair: Can you put that question very quickly?

Mr Grandmaître: Yes, my question to the parliamentary assistant was, these people, the BBPA, were involved in the drafting, or were at least consulted, to prepare Bill 79. Can you guarantee this committee and also this organization that they will be part of the consultation for your new equal opportunity program? Will the public be invited?

Mr Clement: We've certainly commenced some stakeholder discussions on the equal opportunity plan. I might mention that Mr Lecky and I met over two years ago when Mike Harris had a round table discussion with members of the black community that lasted over two hours, and it included members of the BBPA. I think Mr Harris's position on employment equity legislation was made pretty evident there, and there was quite a diversity of viewpoints among those represented around the table.

Some certainly felt, as the BBPA feels, that mandatory quotas are necessary, but there were other members, small business persons from the black community who felt that was the wrong way to go. I certainly think that we did an amount of consultation well before the election with the black communities in this area.

Mr Marchese: Mr Lecky, it's good to have you back. We heard you at the other hearings re Bill 79. It was a pleasure to listen to your comments here today. I would like to offer some thoughts on Conservative thinking for a few moments, looking forward to your response to it.

Conservative thinking goes something like this: They support the particular over the general. They tend to glorify the individual. They tend to say, for example, when they look at a black man or woman: "But you've succeeded. Why are there any problems? Did you not succeed on merit?" A woman comes forward and they say: "But you succeeded. You've made it. Did you not do it based on merit?" We might have a person with a disability, although that's a bit more difficult, and they might say: "Well, you succeeded. Was it not based on merit? Doesn't the merit principle work and doesn't it show that you as an individual have drive, have ability, that you worked hard, that you studied hard? If you do that, doesn't it mean that all blacks can do it and that all disabled people can do it and that all women can do it?"

Then, in supporting that individual, the world would be okay. Everybody would have equal opportunity and the world would be just fine. Do you support that kind of thinking in terms of how we get to discrimination and equal opportunities for people?

Mr Lecky: Actually, no. I think there is a certain argument and a certain merit to the fact that people, individually, should work hard and should study hard and

should do all the things that everybody else does to achieve what we all supposedly achieve, but I think when you look at it, when you get down to it, you have to understand that the playing field is not level. If we were able to go and play with the same rules and the same game, then I can guarantee you that we would be able to exercise our own individual talents and expertise to achieve what anybody else has achieved.

But when you have these systemic barriers and discrimination that are there, it becomes extremely difficult for a black individual to overcome these barriers. The point is that half the time you don't know these barriers are there, you don't see them. It's very subtle, but it's there.

We have to understand that yes, there is a certain amount of merit for individualism, but that alone will not allow minorities and people from minority backgrounds to access certain things, because if the institutions are inherently racist, if there are problems there and barriers there, how do you get around those barriers no matter how good you are?

In our community, there is a saying that you have to be 10 times better than the white person to be able to succeed, and it's true. You have to be literally 10 times better. Think about the talent that is wasting out there. Yes, there are people like me who have succeeded, and many others, but it has been extremely difficult and not everybody is an entrepreneur. Believe me, I've faced all kinds of discrimination myself, and I think that it's important to recognize that those people who have their blinders on, who assume that you can make it alone just on your own merit, I think that's totally ridiculous and shortsighted and it is shortchanging this country.

The Chair: For the government, Mr Young.

Mr Young: I will not presume to speak for the NDP because I'm certainly not qualified to speak as a socialist, although Mr Marchese is trying to speak for the PCs.

I have a question, Mr Lecky. My question is, and for me it is the bottom of this whole issue, where are we going with this? What happens when a company has reached its numerical goal or its quota of what is available in the externally available market? What do they do when they say, "No, we've hit the number of visible minorities and we've hit the number of women at all these positions." What do they do next? Do they now make all their next hiring decisions based on race? "Well, we've got enough of those. We need some more of these." Where is it all leading to?

The second part of the question is, I'm thinking of athletics where you might have a group of black athletes who are achieving and are the best in the country. Are we heading to a situation where we have to say: "No, we can't take the best. You have to have a white runner in there with the black runners because they haven't had a fair chance. We want to have representation of everyone"?

Mr Lecky: First of all, I don't think employment equity legislation was meant to be a permanent law. I think what we're talking about essentially was achieving a balance in society.

Mr Young: What happens when you get there?

Mr Lecky: When you get there, we don't need it, is my point. The question about black athletes: What we're talking about is levelling the playing field. So if a white athlete is good enough and he is fast enough, and that's based on purely objective arguments—if you're faster, then you're going to represent us. It's as simple as that.

That's the ultimatum in levelling the playing field, because now we have a situation where everybody's judged equally. It's a stopwatch, a timing and the fastest person wins. That's all we're asking for. We're not asking you to take inferior people or slower athletes. Let's be realistic.

Mr Maves: One thing that has become clear during these hearings is that who-you-know hiring is practised by many employers of all colours—

Mr Lecky: Sorry. Could you repeat?

Mr Maves: Who-you-know hiring. You have a circle of friends and relatives or the people who already work for you and you tend to just pick people out of that area. It's called who-you-know hiring rather than overt discrimination in hiring. In your business associations, do a lot of your businesses practise this too, do you find?

Mr Lecky: To some extent, yes. I think there's this who-do-you know type of thing. I'm going back to the firefighters situation. This is what was happening: The chief would tell his son and it wasn't advertised. It was a kind of closed shop, and I think it's important for us to realize that. I hope I'm getting your question straight, but I think what you're saying is a word-of-mouth-type situation, right?

Mr Young: Yes.

Mr Lecky: If you're not advertising it, if you're not making it open, if the process isn't open, then essentially you are eliminating people.

Mr Young: What my question becomes is, how else through numerical goals or quotas can we get companies to widen their searches into communities that we might otherwise not venture into?

Mr Lecky: First of all, the process has to be open. It can't be this privileged position because you happen to know the president of this company or that company. It has to be an open process where it has to be advertised and people have to be judged in an objective way and certainly not on the basis of the old boys' network, "Well, he went to Harvard with me," or "He went to Upper Canada College with me and so I know him," and so on.

I think it has to be advertised. It has to be proven. I keep hearing the term "quotas" bandied around and I think it's important that we get away from that rhetoric because we're not talking about quotas; we're talking about simple measurement. You have to have some numerical system to know what's happening. You must have that. If you don't have it, then how do you measure it?

The Chair: Thank you very much, Mr Lecky. Your time is up. We appreciate your interest in our process and your attendance here this morning. Thank you.

Mr Lecky: Thank you.

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NORTH AMERICAN SIKH LEAGUE

The Chair: The next presenter is the North American Sikh League, Sam Hundal, president.

Welcome to our committee, sir. You have 20 minutes to use as you see fit. Any time you leave for questions, we'll begin with the New Democratic Party. The floor is yours, sir.

Mr Sulakhan Singh Hundal: Thank you, Mr Chairman. I'm before this committee not presenting an intellectual exercise, but these are my personal experiences which I experienced in my dealings with the public over the last 21 years in the province of Ontario.

I feel privileged to appear before this standing committee on general government and would like to share my concerns, views and experiences with you with reference to the Employment Equity Act, which was proclaimed on September 1, 1994, and the recent Bill 8, an act to repeal the present employment practices in Ontario.

Personally to me, the employment act was primarily aimed to overcome systemic discrimination and remove barriers that adversely affect the aboriginal peoples, persons with disabilities, racial minorities and women in the workplace, those four designated groups.

Regulations of the act set out some key elements, as we know, to develop strict plans, set numerical goals for each designated group within a specific geographic boundary in each occupational area and a timetable to achieve them—I will be emphasizing them—and it is overseen and enforced through the employment equity commission and the Employment Equity Tribunal.

I believe that all persons living in Ontario must have equal access to employment and promotions at all levels of government, including privately operated and managed services and businesses. Also, I equally believe, and I have a strong conviction, that education, experience and skills should remain the basis of merit for any employment and promotion, irrespective of race, sex or disability factors, in today's highly competitive marketplace.

Employment equality should be applauded loudly and rationally without creating fundamental and permanent divisions among our workplace in Ontario, and I emphasize that one.

I must admit that the present employment act regulations have created some fundamental divisions among both our employers and employees as well. Apart from cost factors—that's a small one—certain employers have apprehension and concerns regarding regulation and government intrusion in their operations. There are inevitably some people in the workplace who are apprehensive about employment equity in terms of concerns about what it means to their security, their career advancement.

On the other hand—and I will emphasize this one—it has created a segment of so-called second-class citizens in Ontario who do feel a serious blow to their dignity, to their self-respect and qualifications by forcefully categorizing them into one of the four designated groups, so-called disadvantaged groups. For example, the new generation of children born here, educated and trained in Ontario, feel that it is a serious insult to them to be

pushing them into one of the racial minority categories. They do not wish to be classified as racial minority members but rather as Ontarians. It affects our long-range race relations seriously in Ontario by creating unnecessary societal divisions and incorrect perceptions.

I have experience of that one, back home where a similar kind of regulations have created strong contradictions in the society and violence has been observed largely in that part of the globe. To me, that kind of experience and that kind of memory are fresh, which I don't want to see in our province.

Unfortunately, the Employment Equity Act has inflicted deep scars which make some feel uncertain of the future and others are left with a guilty conscience, lacking fair and open competitive capabilities.

I talk to the young people. In my 21 years' experience as a real estate broker, working in Ontario, dealing with all kinds of people, the young people talk to me about this one. They are very serious and I am also concerned and I can feel their feelings, so that's why I emphasize this point.

The concept of employment equity, to me, was originated with good intentions and had been targeted towards providing needed reform to the "far too prevalent and discriminating attitudes and practices of management and even government departments, but it appears to have gone too far" and has become "the tail wagging the dog" as companies and employers scramble to meet forced mandated figures within human resource operations because there is a force over there to prove to their superiors that they have done this and achieved these goals.

I must admit that like many visible individuals I have experienced discrimination, I have experienced rejection, frustration and also, I should emphasize, recognition and appreciation as well. I believe and cherish democratic values and opportunities blessed to our society luckily in Ontario.

Because I was interested like many other visible and other people, I came to hear the minister in the Legislature that day and I personally heard the announcement of the Minister of Citizenship, Culture and Recreation in the Ontario Legislature on October 11, 1995, referring to Bill 8, which is An Act to repeal job quotas and restore merit-based employment practices in Ontario, as the minister put it.

I also had the opportunity to attend the minister's press conference explaining in detail how to encourage and create employment equality, by providing the necessary educational training, skill incentives and equal opportunities of access to make everyone capable to compete equally, irrespective of their race, sex or other factors. The minister's genuine desire to reform and strengthen the Human Rights Code appears to be a well-balanced approach and a step in the right direction.

I fully endorse and support the honourable minister's new initiatives in this direction as this would induce democratic values in our society, remove fear of uncertainties and mistrust among some segments of our society and create a sense of dignity and pride among many new Canadians, many new generations, many young people,

individuals, to enhance long-range race relations in Ontario.

Finally, from my own experiences, I would sincerely suggest that in order to provide equal and fair employment opportunities to all, the honourable minister would be expected to:

- —Provide adequate and easily accessible opportunities to all.
- —Enhance education and skill-related abilities suitable to Ontario's work-related environment both in government and in the private sector as well.
- —Encourage and enhance programs like co-op and apprenticeship for those who need them the most, and they should be universally available in all fields. This concept has been proven in certain parts of the world where people who intended to go into a certain field had an opportunity to gain firsthand experience.
- —Facilitate opportunities and create an environment where one could gain experience and skills voluntarily in one's own spare hours, as in libraries or hospitals. That will give them the chance, if they want, to gain firsthand experience which is not available otherwise.
- —Encourage and regulate the construction industry, government departments, the business and service sectors to provide wheelchair accessibility to all buildings and workplaces. In many of them, especially in the private sector, that is not available at the moment.
- —Reach out to aboriginal communities—because it is always the powerful who extend the hand—and encourage them to participate in educational training, skills development and culture-related initiatives to ensure their equal participation in the workplace and contribution to build a model Ontario.
- —Initiate projects and programs to publicly recognize, appreciate, reward and encourage those employers who become leaders to provide equal opportunities for all.
- —Strengthen and overhaul the Ontario Human Rights Commission's mandate in order to act efficiently and firmly against those who intentionally discriminate against fellow Ontarians. The Human Rights Commission should be a proactive force and leader in this field if we have to make major changes in employment equality.

In conclusion, I appreciate and I would support the honourable Minister of Citizenship, Culture and Recreation's bold, democratically mandated measures. The mandate was given to them not many months ago to bring about employment equity, induce dignity and self-pride and create a pleasant Ontario to work in and raise families with pride, irrespective of diversified individual backgrounds.

Mr Len Wood (Cochrane North): Thank you for coming forward with your presentation. You're saying, I take it, that the Ontario Human Rights Commission should be looking after discrimination instead of Bill 79. From what I can gather here, you're saying the Ontario Human Rights Commission the way it is, and some presentations we've heard would not deal with it in its present form. What changes would you like to see to the Ontario Human Rights Commission so it would be able to deal with the problem?

Mr Hundal: I personally believe that they should have a wider mandate, number one, to be proactive, to provide information, guidance, facilities to the people so that there is accessibility to the jobs and employment without any barriers, proactive in that sense.

Especially, they should have more power to deal with them more swiftly. We have seen that the process is so long. It takes months and months and years to investigate and then finally come before the tribunal. I think that's a waste of time. Many incentives, the better and positive side of the mandate, are lost during that process. I want it to be a swift and very quick process to deal with the issues.

Mr Wood: But the commission, as it is right now, would not do the job.

Mr Hundal: I don't think so.

Mr Young: Thank you for your presentation; it's very, very interesting. Do you have any ideas about how we could make the Human Rights Commission more proactive?

Mr Hundal: I think we should give them the guidelines and mandate to reach out to the communities to provide information, education, incentives, that kind of approach. That's one part. Second, give them the mandate to deal with the issues swiftly, strongly and thoroughly.

Mr Young: You say we should initiate projects to recognize and reward companies who become leaders in providing equal opportunities for all. Companies hire people from diverse communities because it makes them money. So my concern is, why recognize them for doing something that's smart and makes them more money?

Mr Hundal: No, I don't think so. For example, I'm one of the governors at Peel Memorial Hospital and we initiated a program which has proven successful to recognize some of our employees who have performed excellently, first, on their job; second, in race relations. They came out and the word spread out to the other workforce, and I think it was a very positive outcome of that.

Mr Young: It's more like getting the message out that diversity is smart.

Mr Hundal: Yes.

Mr Stewart: It appears from your comments that you believe the voluntary approach and the ability approach is the way to go, that you want a level playing field and we have to have the education and training skills in place.

What we're hearing this morning, and have over the last while, is that many of the minority groups are either being pushed out or dropping out of school. How do we create ability if we don't have these kids stay in school? Yet the other group is saying we're pushing them out. Do you feel that's a fact or not?

Mr Hundal: I have no expertise on that one, but I can give my own experience. There were some slurs going on and racial remarks, and sometimes the kids are not bold enough to face them and realize the environment. It happened to me. I was called many times "Paki" and "raghead" and told "Go back," but I understood the ignorance on the part of others, that they could not understand my way of life, and I stick to that one. My

teenagers, who were born here, have gone to university, and they faced the same kind of experience. They were bold enough to deal with that with the backing of the family, with the backing of other people, surroundings. That's my perception, to be true, to face the realities and to face them in a positive way.

I remember, Mr Chair—

The Chair: I'm going to have to go on to the next question, sir. I'm sure it's an interesting story, but Mrs McLeod has a question for you.

Mrs McLeod: You've put a great deal of emphasis on the importance of education and skills training opportunities as a route to more equal opportunity. I'm wondering if that's enough. You were starting to touch on some other barriers in your last response.

I think it would be accurate to say that members of the Sikh community, compared to the average, have quite high levels of education and skills attainment, because that's a real premium in your community. If that's the case, would you say that has been enough to ensure that members of the Sikh community are getting equal opportunities in the workplace, that they're not encountering other barriers and that they're participating fully? If that's not the case, what other barriers are getting in the way?

Mr Hundal: Thank you very much, Madam McLeod. I appreciate it, and I respect you very much personally also.

This is a very burning issue. I came as a qualified teacher; I taught 11th grade economics back home. When I moved to England the environment was new to me. I knew nothing about the system. I could not even understand and speak so people could understand me. We have qualified people coming from the different parts of the world, but they need training, they need elocution training, they need other experience, because the way we deal with things in other parts of the world is different, our approaches are different. The approaches are different over here.

There are 15 to 20 lawyers trained in other parts of the world driving taxis at the airport. There are maybe 50 to 100 qualified teachers living here, working in industry and driving cabs because they did not have the opportunity to go to the institutions to improve their education compared to the levels we have in Ontario. I was talking about developing the training and skills which are useful in Ontario, in our environment.

Mrs McLeod: As you talk about strengthening the Human Rights Commission to deal with barriers, do you then think it should have the power to ensure that the opportunity for that training is in place?

Mr Hundal: Madam, the perception is outside in our communities that they don't deal with it properly as it is now. It is a lingering process, and a person during that time loses faith in the process within six months, a year, two years, three years. We want that they should have more mandate both in terms of proactive and implementing the process.

The Chair: Thank you very much. We appreciate your interest in our process and your presence here this morning.

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LIZ MACKENZIE AND ASSOCIATES

The Chair: Our last presenter this morning is not here yet and we have about 15 minutes before she's scheduled. Liz Mackenzie from Liz Mackenzie and Associates called this morning and asked if she could make a presentation. We've got 15 minutes. Does everybody feel comfortable with that? Okay, Liz, you've got about 15 minutes. We appreciate you being here.

Ms Liz Mackenzie: I appreciate the time, and thank you very much for giving it to me.

I have been watching some of these briefings and I've been talking to other people, and I also felt I needed to present some of my views to you from my perspective, my background as a human resources management consultant in the fields of employment equity since 1988. I want to tell you a bit of my background just so you understand where I'm coming from.

I was employed with a major international human resources consulting firm for several years, and then I decided to start my own consulting business in 1993. I have assisted some of the largest companies in Canada in putting in place employment equity programs and plans in their organizations over the years. I've also had consulting experience with the broader public sector and also not-for-profit organizations. I also have a master's of business administration degree, which gives me some knowledge of business in Ontario. I think I have a fair basis from which to observe business in Ontario.

I want you to know that I've spent my consulting career making the business case for employment equity. I have been telling employers and employees that employment equity will ensure that merit is the only criterion which will be used in employment decisions. I've told them that employment equity will ensure that their human resources are utilized efficiently and effectively, and that they will ensure access to the best talent available for the jobs in their organizations.

I have three major points that I want to make about Bill 8. I'll just outline them and then I'll expand on them.

First, goals and timetables are not job quotas. My second point is that merit-based employment practices have not existed in Ontario. My third point is that if, ideologically, this government is opposed to legislating employment equity, then the government should lead by example and initiate a contract compliance program similar to the federal government's program.

I will now expand on my points.

First of all, goals and timetables are not quotas for who you have to hire or promote, but they are indicators of what organizations can reasonably expect to achieve if they have eliminated discriminatory barriers in their workplaces for all employees. Because I believe in taking things down to a practical level, I offer you this following example.

A common misperception I have heard often, both from employers and employees and also in some of the questions around what's been happening in this committee, is that goals force an organization to choose people according to designated group status without regard to

their qualifications, and that's not true. Being qualified for a job should always be the first cut. Goals do not relate to who to choose in any individual employment decision, and so much has been brought down to the individual level for goals. Goals are indicators of what cumulatively can be or should be achieved over a period of time.

As my illustration, I'm going to ask you all to imagine that you are car dealers, and I understand that for one of you that's not hard to imagine. You are a car dealer and you sell both high-end and low-end cars, and you have a customer who comes in and only wants to buy the low-end car. They have no interest in the high end; it's beyond their economic means or whatever reason. You would not say to this person, "I'm sorry, I've already met my sales goals for the quarter for those low-end cars, so I can't sell it to you." That would be economic death. You would not do that.

However, if at the end of the quarter you look at what has happened to your sales and you find that you have only sold low-end cars, then you're going to do some examination of why you failed to meet your goals with the high-end cars and you're going to do an analysis; you're going to look at some possibilities. Perhaps, first of all, your analysis of what you could achieve in the sales of high-end cars was faulty in some way, or perhaps the economy took an unexpected downturn and people just didn't have the money that was anticipated and so you didn't sell those cars, or your salespeople simply don't have the skills or the drive to sell those high-end cars.

If the reasons were the first two, then you're going to adjust your goals appropriately to the reality. If the reason is the last possibility, which is that your salespeople didn't have the drive or the skills, then you're going to provide them with those skills and you're going to provide them with the means they need in order to meet those goals in the next quarter.

That's what goals and timetables are all about, and that is true for this situation as with any other situation in business.

My second point, merit-based employment practices have not existed in Ontario: I think if you ignore history, you do it at your peril. At our peril we ignore history. I think if you look at the history of Ontario and Canada you will find many, many examples of where merit-based employment practices have not been practised throughout, and I've given you a few examples in my brief. We had also today a very personal account of how merit-based employment practices have not existed in the workplace.

With the coining of the Peter principle, we also know that white, able-bodied men have acknowledged that merit-based employment practices are not the norm in businesses as well. The principle which states that everyone will be promoted to his level of incompetence was coined long before employment equity and designated group members had made significant inroads into Canadian businesses.

In the course of my consulting services and practice, I have heard many personal stories from so many individuals who have told me that merit is not recognized in

most organizations. I've heard stories of blatant discrimination as well. I've heard stories from women who worked hard to make it into senior positions in companies, often sacrificing the opportunity to have husbands and families, only to find their authority undermined by spiteful allegations that they had "slept their way to the top."

These are the stories of job interviewers and managers who overstep their bounds and ask women if they are taking precautions to ensure that they will not get pregnant, who grill people with disabilities about their reliability, who question the ability of aboriginal people to work a full day in an office environment and who ask racial minority members if they can adjust themselves to the faster pace required by Canadian businesses.

The government members will have to do more than invent a misleading title for a bill if they wish to make merit-based employment practices a reality in Ontario.

Finally, on my recommendation that if you cannot support legislation for employment equity, then at a minimum put in a contract compliance program: I'm adding my support to all those presenters who have gone before who wish you to amend Bill 8 so that employers who wish to continue their employment equity efforts can retain the data and the information that they have collected from employees thus far.

But I also want to recommend the contract compliance process. The government needs to lead by example: by initiating this contract compliance program, by showing that they will only do business with those employers who have shown that they have removed barriers to the full participation of individuals in the workplace.

I also suggest that the government should set up an aggressive education and consultation service on employment equity practices for both employers and employees. 1150

I make this recommendation for a few reasons. Since Ontario cannot compete with other countries on the cost of human resources, then we have to compete on the ability to utilize these human resources more effectively and more efficiently. This is much easier to do for countries with a more homogeneous labour pool. Therefore, Ontario organizations have to be at the leading edge of human resources practices in order to ensure the best competitive advantage. Ontario organizations will not be able to compete effectively as long as there are barriers in place which prevent the best people from accessing job opportunities.

Past experience has shown that organizations very rarely understand the significance of managing their human resources as efficiently and effectively as other areas, such as production and marketing. Only the very largest organizations typically have the resources to devote to developing in-house expertise, doing the research and developing the programs to be leading-edge. Even these organizations have often had a government push to move them to be leading-edge.

The federal experience I think is a very useful example here. If you look at the federal contract compliance program and the federal employment equity program, a significant number of the employers who have been covered under that have gone far beyond the initiatives that the government ever imagined and have recognized the benefits to their bottom line and have put in phenomenally proactive diversity management programs in their organization. The federal government's own voluntary employment equity program, however, has not succeeded as well as in the private sector. For that reason they've now been included under the new federal Employment Equity Act, where they were not included before.

If the government implements a contract compliance program which is similar to the US federal contract compliance program, the government could also be stimulating the economy in a significant way. The February 1995 issue of the Academy of Management Journal published the findings of four financial economists in an article entitled "Competitiveness Through Management of Diversity: Effects on Stock Price Valuation." This longitudinal study found a positive correlation between being recognized with an affirmative action award by the Office of the Federal Contract Compliance Program and increase in stock prices of the recognized companies immediately after the announcement of the awards. In other words, their federal contract program had stimulated the economy and you could do that as well.

I believe firmly that there are sound economic and business reasons for organizations to implement employment equity. But I also believe that many organizations, particularly medium-sized and public sector employers, will not have the resources, nor the will, to ensure that barriers are removed in their organizations without government assistance and strong encouragement through a proactive government program initiative.

I think that it is particularly telling that the Canadian Manufacturers' Association did not know how many of its members have implemented voluntary employment equity programs. It seems that the CMA, an employer association which is supposed to advocate on behalf of its members and assist them in staying competitive and successful, does not understand the economic benefits of employment equity and the benefits of utilizing human resources more effectively. If their own association does not understand the benefits to Ontario manufacturers' bottom lines, then how can individual employers be expected to remove barriers and implement equal opportunity programs of their own good will?

In conclusion, I have to bring this down to the personal because it has affected me personally; Bill 8 has affected me personally. I have heard government members express some dismay, both when Bill 8 was introduced and during these hearings, that some advocates have implied that they are lying, or that they are lying to the public, about the Employment Equity Act, 1993.

If government members feel this way, then try to imagine how employment equity consultants and practitioners feel, when faced with the title of Bill 8 and other government materials, which maintain that employment equity means job quotas and the elimination of merit-based employment practices.

As an employment equity consultant for over seven years, I have worked hard at assisting employers and employees in understanding that employment equity is the very essence of merit-based employment practices. I find

it shameful that a government which is supposed to represent all Ontarians can treat those who have divergent views with such utter contempt, and I do stress that.

Finally, I want to remind you as government members that even where we have called them goals and timetables, even where you have said, "Yes, they've been called goals," you say that they have to be interpreted as meaning quotas, and I have to remind you that you are bringing down a budget in a few days. This budget is going to have certain goals and objectives in it, and I want to question, given the government's view of goals, can we assume that the government's budget will contain quotas?

Thank you very much for providing me this time to speak to you.

The Chair: In view of the fact that Ms Casselman is not here yet, we've got maybe a quick minute for questions. Mr Young for the government.

Mr Young: There may be some relevance to your analysis from the automobile industry, and there is more than one member of our government who's worked in that industry. I've worked in a number of industries, and 20 years ago I worked in that industry also.

What is very important, in looking at your market-place, is the surrounding area, what's available in the marketplace. Under Bill 79 there's reference to what's available in the external area in the form of visible minorities and women etc, but what happens to a personnel manager who has pressure from the boss, who has pressure from the government with a \$50,000 fine looming, who's told, "Come on, you've got to have these numbers there"? Are you saying that they're going to keep saying to their boss, "I'm sorry, the numbers just aren't available in this area," or are they just going to try to pull some résumés out of the pile and say, "Look how fair we are"?

Ms Mackenzie: I think you've missed some of the point of the analysis under the goal-setting. In the Employment Equity Act it says you have to make an assessment of what's available in the area from which you can reasonably be expected to recruit your employees. If that analysis shows—and you can get the statistics from Statistics Canada—under almost 1,000 occupations, of who is qualified according to designated group status in your area, then you build a scenario that says here they are; these are the people who are qualified in your area—qualified. I'm emphasizing that; those data are available.

Mr Young: Yes, but my point is, what if you can't find them?

The Chair: A minute goes by very quickly these days. Mrs McLeod.

Mrs McLeod: Can you tell me whether or not you're working with people—and I don't want the specific names, obviously—employers who are putting in place employment equity plans and who have been collecting data since Bill 79 was brought in who would be, as we understand it under the terms of this act, required to destroy the data? I'd like you to say just a little bit more about the impact of the destruction of data aspects.

Ms Mackenzie: Well yes, I have employers who have phoned me in a panic because of that particular section in

Bill 8, and have also been met with legal counsel in their organizations who have said this means that you have to destroy all your data even though you want to go ahead and do employment equity planning. They are trying to say, "In our communications most of my employers understood that it was important to put in employment equity for business reasons and because they believed in fairness in the workplace." They communicated this to their employees, along with the fact that they were also going to comply with Bill 79.

Now all of the good work that they've set, that they believe in fairness in the workplace, that they believe in making sure that all people, all individuals, are recognized for their merit in the workplace is being, a lot of them feel, thrown down the drain because of that particular provision in Bill 8 which is hampering their efforts.

The Chair: Thank you very much. Mr Wood, one minute.

Mr Wood: Just briefly, the title: I went through that during the campaign for five weeks—people were telling me—and that's why I was re-elected as an NDP member: "Oh, don't worry about that. Mike Harris is lying and the Conservative candidate is lying." Now they're elected and the government is in session and we see the title, an act to repeal quotas and restore merit-based employment, instead of dealing with the Employment Equity Act, 1993. I just wanted to get your comments on how you feel about the title of this particular Bill 8.

Ms Mackenzie: I think I personally made it clear at the end of my presentation that I am offended by that title. I feel that the government is implying to me that I have been pulling the wool over my employers' and employees' eyes, that I have been in fact lying to them by insisting that employment equity is not about quotas and it is all about merit-based employment practices. I feel that the implication from this title and from other materials is that I've been lying, and I really do resent that. I find that offensive.

The Chair: Thank you very much. We appreciate your participation in our process.

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ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: Our last presenter is Leah Casselman; then we get to have some lunch. Good morning and welcome to our committee. You have 20 minutes to use as you see fit. Any time you allow in that for questions, the questions will begin with the Liberal Party. So the floor is yours, and if you could introduce yourselves so that the Hansard reporter knows who is here, please.

Ms Leah Casselman: We'll take a few minutes to get ourselves settled then, since it is our 20 minutes. My name is Leah Casselman and I'm the president of the Ontario Public Service Employees Union. To my left is John Rae, who is one of our members and is a worker in the employment equity field. To his left is Mohar Budhram, who is the chair of our provincial human rights committee within OPSEU.

I was surprised to hear that you needed a description of who we were. I guess there must be some new faces around here; that's why. We represent your employees, the people who work directly for the government, and we also represent those people who work in the college system and thousands of members who work in the broader public sector as well in this province.

What you have before us is our presentation and also an earlier document which we sent to the previous government in February 1992, which would be the blue document on principles for employment equity legislation.

OPSEU is a union which represents hundreds of workers in the public and broader public sector. Our members perform essential public services in places like hospitals, day care centres, associations for community living, ambulance services and the Ontario public service.

Our union has a very diverse membership. As a bargaining agent, it is incumbent on us to recognize this diversity and address the issues that adversely affect our members in their workplaces. Over the years, we have fought hard to ensure that all our members are treated with respect and dignity in their workplaces. We have been aware that systemic and attitudinal barriers exist in the workplace and these barriers have served to prevent the hiring, promotion and equitable treatment of women, persons with disabilities, aboriginal peoples and racial minorities.

We've been painfully aware that the voluntary approach did not work. The Ontario public service had a voluntary affirmative action program for women for many years, yet women who made up half of the population are not to be found in similar numbers in all occupational groups in the public service and they do not hold an equal number of senior positions. Despite the fact that the Ontario public service had in place a voluntary employment equity program from 1989 to 1993, workers with disabilities and aboriginal workers have continued to be grossly underrepresented when compared to their numbers in the population. Favouritism and nepotism have dictated who gets hired, who gets trained and who gets fired. Many studies have shown that stereotyping and prejudices and not merit and ability influence who gets the job, who gets promoted on the job and who keeps the job.

The Employment Equity Act was for us a welcome change, a change that was designed to ensure that workers who have been discriminated against and historically disadvantaged stood to be able to compete on a level playing field. Bill 79 brought a greater degree of democracy to the workplace. It ensured that workers and their bargaining agents, as well as unorganized workers, would have an equal opportunity to review policies and practices for barriers and determine ways of removing them in a timely fashion.

Bill 79 had no quotas. In fact, all the legislation required is that employers make reasonable efforts to ensure appropriate representation of the designated groups in their workplaces when opportunities for change were available.

The short title of Bill 8—Job Quotas Repeal Act—is misleading, offensive and deliberately misrepresents the issue. Bill 8 panders to the stereotype which says that designated groups who have been the victims of systemic and intentional discrimination are unqualified. This false and prejudiced premise reflects the belief that the four

designated groups are inherently inferior and any legislation giving them a fair break in the workplace will drag down standards. The government's take on quotas is especially hypocritical since it is a participant in a quiet quota system that almost always penalizes talent: the composition of cabinets by regional, religious, linguistic and other interests. Does anyone really believe that every minister in the cabinet is there on merit?

Interjections.

Mr Young: That includes previous cabinets.

Ms Casselman: This is my dime, folks.

Bill 8 goes much further than to repeal the Employment Equity Act. Many employers and bargaining agents have taken the time and spent resources to gather information which would help them to make their workplaces fair and equitable. Bill 8 requires them to destroy that material. This in our view is not only vindictive; it is oppressive.

Bill 8 seeks to repeal provisions of the Police Services Act, an act proclaimed in 1990 requiring police services to implement employment equity programs and plans. Bill 8 carefully removes all references to employment equity so that police services are now free to disregard any action which would result in creating forces that are more representative of the diversity which is Ontario.

The Education Act is also gutted of any references to education equity. This of course will have a far-reaching impact on the future citizens of the province. The attempts to ensure that our classrooms and curricula are reflective of the diverse cultures of the people of this province will continue to say to the young people from varied backgrounds that their history and culture are not valued. They will continue to be unable to see role models in their classrooms,

Bill 8 goes even further to repeal subsection 14.1(1) of the Ontario Human Rights Code, a provision which allows employers to develop and implement special programs to correct disadvantages due to discrimination.

Joint responsibility provisions of Bill 79 would have brought a new era of improved labour relations and a less adversarial atmosphere to workplaces by requiring the parties to cooperate to develop employment equity programs and plans uniquely tailored to their organizations. Bill 8 returns Ontario to the outdated system of confrontation which past governments, business and labour have been trying to change.

It's our understanding that the government is not only repealing the requirement for mandatory employment equity programs. You may correct me here, but it's our understanding that it would also repeal subsection 14(1), and if that is correct, it is our understanding that with the requirement that information collected under Bill 79 be destroyed, it is erecting a barrier to prevent workplaces from effectively and cost-efficiently developing voluntary programs.

This government implied that it was its intent to strengthen the Ontario Human Rights Commission by an infusion of resources saved by dismantling the Employment Equity Commission. To date this commitment has not been kept. In fact, the commission continues to have a backlog of cases and to be underresourced. Shame.

Disadvantaged groups are waiting to hear when and how their needs will be addressed by this government. When will the playing field be levelled so that there will be fair competition in the workplace?

What concrete steps does this government expect employers to take to remove the barriers that even the government admits still exist?

How does the government expect the currently overburdened Human Rights Commission to deal with the increased number of individual complaints that it will inevitably receive?

How will employers, police services and boards of education be made accountable for equity and fairness for the people of this province?

In conclusion, if the government intends to proceed along this path, all Ontarians, and OPSEU members in particular, are looking to answer these questions. We have the right to know your intentions, and the government has a responsibility to honestly inform the people of the province about how these very critical issues will be addressed.

1210

The Chair: Thank you for your presentation. We have three minutes left per party for questions, beginning with the official opposition. Mrs McLeod.

Mrs McLeod: That's all right. I came in partway through the presentation. Do you have a question, Bruce?

Mr Crozier: Thank you for your presentation and I ask this question in all concern. I appreciate what you're saying in here and I agree with many of the points that you've made. It would have been helpful though if you had come to us—and I have to admit it's my first day on this particular committee—with some constructive suggestions on how those questions might be addressed at the end. Do you have any comment in that respect or would you prefer just to see Bill 79 stay as is?

Ms Casselman: I guess the most telling comment would be that if the government is going to hire an outside consultant to deal with this issue while they are laying off my membership who have the expertise in this field, then it behooves me to understand what kind of consultation they're actually looking for.

Mr Crozier: Thank you. An additional question: What we appear to be dealing with here is getting rid of some legislation and we have nothing to replace it in essence and you may agree with me, if you will, that Bill 8 certainly doesn't replace it.

Ms Casselman: It's pretty thin.

Mr Crozier: Yes. So would you agree with me then and comment on the fact that we don't have the government's plan before us? Would it not have been more appropriate to have the government's plan before us to deal with as opposed to simply getting rid of some legislation and not knowing when we're going to get any kind of replacement? Could you comment on that?

Ms Casselman: Yes. I'll ask John to comment on that. Go ahead.

Mr John Rae: In a democracy we normally have the opportunity as citizens to debate varying ideas and the

government isn't giving us this opportunity here. Obviously the government intends to go forward with this bill, but it's offered us nothing in its place. Especially as a person like me who comes from a group that is so chronically underemployed and unemployed, we're waiting to hear your ideas. Obviously if you've decided employment equity is not the route to go, you must have some idea in your back pocket as to what you think would be better.

Now where are those proposals? Where are they? We see nothing, and I can only say shame because you've prevented the citizens of Ontario from going through what one would expect in a democracy, the opportunity to discuss the merits of various proposals and various ideas to solve the chronic problems that even you are well aware—in fact, all members in the House, I assume—still exist.

Ms Churley: I just have two quick questions for you. Do you have a fear, with what appears to be massive layoffs coming from this government, which I know you're going to be fighting but it appears to be happening, that as often happens, members of the four target equity-seeking groups will be some of the first to go?

My second question is, just very quickly, what kind of resources, both financial and otherwise, do you think this government has to put in to the Human Rights Commission to even begin to be proactive around employment equity?

Ms Casselman: Both of those questions boil down to an understanding of responsibilities around labour relations. If the government was to assume their role as employer, which they have yet to do, we might be able to sit down and talk to them about some of these things. Clearly, if they're discussing massive layoffs, as they have in their doctrine, the first people out the door will be those in the target groups because successive governments have not dealt with the employment equity hiring provisions before. So clearly those were the last in and they will be the first out.

In regard to the Human Rights Commission, my sense is this government won't be putting any money into anything except their friends' pockets. So in regard to any kind of staffing for the Human Rights Commission, clearly we need more officers; clearly we need some training; clearly we need employers, and if you'd had employment equity legislation in workplaces they would not be operating from a position of ignorance and they would understand their roles and responsibilities to ensure that people understood what those rights were under the Human Rights Commission. You would actually end up having fewer complaints coming forward, because people would then be responsible for their actions and understanding what that responsibility was.

Mr Young: If there is a first-in, first-out with regard to reduction in the civil service—

Ms Casselman: Last-in.

Mr Young: Sorry, last-in, first-out—if there is, I don't think there's anyone more than the unions who are responsible for that because the unions fought so hard to keep seniority as part of Bill 79; but I'll go on to my question.

You said that you brought in a new era—"Bill 79 brought in a new era of improved labour relations and a less adversarial atmosphere to workplaces." Yet there was a gentleman here this morning, representing the Peel Multicultural Business and Economic Development Committee, who frankly is far better qualified than you or I are to judge because he's lived it, he's a Sikh, he's a member of a minority, and he said, "Bill 79 has heightened the awareness of differences, leading to boost separation of the groups from mainstream society and leading to increased conflict and hostility as shown on June 8 election results." Do you have a comment on that?

Ms Casselman: First of all, my comment is: a startling amateur ignorance of collective bargaining and how unions aren't involved in hiring. It was employers and successive governments who hired people, and probably your government, back under Davis, had a very strong involvement in who now has—in the senior ranks in the civil service.

In regard to the comments made earlier by a presenter, I don't which party he was from or what his background was—

Mr Young: He was representing the Peel Multicultural Business and Economic Development Committee.

Ms Casselman: Okay.

Mr Len Wood: He's a Tory.

Mr Young: I think that's a little bit irrelevant for these hearings. I don't know what party he belongs to.

The Chair: Mr Young, Ms Casselman has the floor.

Ms Casselman: Thank you. In regard to that situation, people—obviously there was a misunderstanding when Bill 79 was presented. What was missing with that presentation was the huge education which needs to go with that. Clearly, when you're making some major changes into how people do business, whether it's unions or employers, you have to do some major education. There's a huge history around hiring practices and the way things were dealt with in this province. I guess the biggest problem with Bill 79 was the lack of any kind of education or training that went on.

Mr Young: So education will work in the workplace, but education won't work in society at large is what you're saying.

Ms Casselman: No, that's what you just said.

Mr Young: You're saying education would work in the workplace to make people more tolerant so this hostility isn't there.

Ms Casselman: No, no. Let me—

Mr Young: But you're saying the Human Rights Act and others won't work in educating society at large that diversity is smart business.

Ms Casselman: Let me try to tell you how education works, because your party was very, very good at overnight changing something called "employment equity legislation" into something dirty called "a quota law." In fact, you still purport that with the name of this bill.

If you're going to be responsible—and I think governments and leaders in whatever group need to be respon-

sible because they carry a great deal of responsibility—you have to give everyone the whole picture. So if you're going to educate people about employment equity, you have to talk about what the history was, what the hiring practices were, whether it's in government or business or whatever; but you've got to give them the whole picture. You can't just do one little one-liner and push a button and make something that had some very good merits to it something dirty, which is what your party did during the election campaign and you continue to do.

The Chair: Okay. On that basis, thank you very much. We appreciate you being part of our process and thanks for your presentation.

The committee stands recessed until 3:30 this afternoon, at which time we'll be doing clause-by-clause.

The committee recessed from 1218 to 1539.

The Chair: Okay, ladies and gentlemen. We're here for our final session on Bill 8, which is a clause-by-clause analysis.

As all of you are aware, just to refresh your memories, the subcommittee agreed and the committee endorsed that, that we would finish this process no later than 6 o'clock this afternoon. There's a vote in the House some time before that, so time is a little bit of the essence and I know that everybody's going to be very cooperative as we go through just a little bit of work we have to do here. A few of us are new at this, so we'll be patient with one another.

We consider this section by section and in that vein we will start with section 1, and I guess the first question I ask is, are there any amendments to section 1? Based on the information given to me here, I see the Liberals have an amendment to that.

Mr Grandmaître: Our amendment reads this way:

"I move that subsection 1(5) of the bill be struck out."

As we said all along, we cannot accept what the government is recommending. Basically what the government is recommending is that all documentation that has been accumulated over the past months be destroyed.

We've heard people saying that they intend to follow up with some kind of an employment equity program, but they would have to destroy all evidence, all accumulated information since 1993, and we say that people who are interested in continuing an employment equity program should be allowed to retain this information.

The Chair: Mr Clement, we'll let you—

Mr Clement: I'll defer to Mr Marchese.

Ms Churley: Excuse Rosario. Mr Marchese has to run in and speak. I would like to speak in support of this amendment. You'll have to bear with me for a moment because my colleague was going to speak to this.

Certainly we have an amendment as well that is very similar, although we did put in a substitution for some of the words. But I want to be very clear about the reasons why we support this amendment and giving people the opportunity to keep data that they've collected.

To amend subsection 1(5) is to give employers the right to continue employment equity plans voluntarily, which many, many people—I actually was very pleased

to see that almost all, if not all, of the people who came to speak to us said that they were going to try to proceed and do something on a voluntary basis, and this is of course what I understand the government is saying the government members would like to see. They would like to be able to use the data already collected, provided they use the data in the manner in which it was intended in the previous act, and in fact that's the wording that we include in our amendment.

The rationale for this has been given by many, and I think very clearly, and I'm hoping very much that the government members will support this amendment because everybody who has collected data has said the same thing, that the destruction of the data will prove costly for those who wish to continue with voluntary plans to destroy and then resurvey their employees.

Of course people have also said that they can't proceed with voluntary measures without data. It's impossible to do it. You have to have some background. Ordering the destruction of information collected sends out the message that there is something sinister about the data that are collected, because it is stated it was done under coercion because of this bill which is now being repealed.

But I heard very clearly from members who came and spoke to this committee that the kind of data that were collected under the NDP bill are very similar, if not the same, to data that are collected under the federal government employment equity bill and other kinds of voluntary measures, that they're the kind of data that people have to have in place.

It will leave many employers who continue with voluntary efforts open to more Ontario human rights cases, which is something that we certainly don't want to see happen. This will serve as a deterrent to continuing with employment equity plans, and it really does raise, I think, a lot of confusion for employers currently following the federal guidelines.

If you will recall, the following presenters called on the government to delete this section, and these are just some of them: NAC, the National Action Committee on the Status of Women; Ontario Public Service Advisory Group on Equal Opportunity for Persons with Disabilities; Employment Research Analysts; Ethno Racial People with Disabilities Coalition of Ontario; Toronto Board of Education; Business Consortium on Workplace Diversity; Council of Ontario Universities; Ontario Chamber of Commerce; Committee on the Status of Women; 519 Church Street Community Centre; Alliance for Employment Equity; Ontario Nurses' Association; OSSTF; Ontario Public School Teachers' Federation; Toronto Employment Equity Practitioners' Association; Lawyers in Support of Equity; and OPSEU.

I think that some of these organizations gave very, very concise and very compelling arguments as to why the destruction of data should be ruled out. For instance, the Lawyers in Support of Equity, who gave a very good presentation, I think we'd all agree, a very clear presentation, said:

"As lawyers who represent clients who wish to continue with an employment equity agenda, this section of the bill amounts to an almost insurmountable barrier.

Some of our clients have already invested considerable time and energy in obtaining information to comply with the Employment Equity Act. Since employees provided this information voluntarily, there is no cogent reason why Bill 8 requires the destruction of this information."

The Toronto Board of Education said:

"While we oppose absolutely the repeal of the Employment Equity Act, we would urge as a minimum an amendment to the proposed bill which will permit employers who were pursuing special employment programs prior to the introduction of the Employment Equity Act...."

The ONA called the destruction of data "wasteful... inhibits voluntary efforts and sends out the inaccurate and negative message that there is something sinister about this information."

The Tory amendment still requires destruction of information collected, and frankly I'm very surprised, because I thought that out of all of the testimony before us there was overwhelming support to amend that so all data that have been collected be saved.

Although the government is acknowledging that many, many groups have mentioned this, all this amendment does is to lessen somewhat but not completely the broad sweep that Bill 8 was prepared to do to delete all of Part III of the bill, and instead is a wishy-washy way that allows some but not all retention of information. Now this is going to be very cold comfort to employers as it does not say specifically the collection is allowed for voluntary plans. Our amendment tries to address this, and the Liberal amendment as well. This does not deal with any information regarding the identification of barriers.

The premise behind this amendment and the NDP amendment is that there is in fact nothing sinister about this information, that there are many organizations out there that require this information to go ahead and take voluntary measures.

I know that it has been mentioned by Mr Clement at times that the information is being gathered under duress and that's why it's necessary to have it destroyed. But I did not hear one, not one, of the groups who came in here, even those who were opposed to the employment equity bill, say that these data should be destroyed.

We were told again and again, and I believe Mr Clement himself said, when asked a question by one of my Liberal colleagues about how this data could be used, "We're very well aware that there are already privacy laws in place and the Human Rights Code already makes it very clear how this kind of data can be used." Of course, our amendment tries to strengthen even more that this kind of information can be used only for voluntary employment equity programs.

I think that if that is the concern, that this information could be used in some kind of sinister way, or that the concern is that some people, as has been stated by some members from the government side, in order to keep their jobs or not suffer any negative consequences, would have felt obligated to fill in the survey even though they might not have wanted to do that, I don't think there was any evidence whatsoever.

I'll tell you that if that were the case, and certainly that would have been something in our major consultations when we were putting together our bill, it would have been something that would have been addressed. But we heard, again and again and again, that the only way to get the information to deal with and right the wrongs that are out there in the workplace is to have the information. If you don't have the information, you can't do the job, you can't do anything about levelling the playing field.

Those who came and spoke to us in this room, and I'm sure in private conversations many of us have had with people, made abundantly clear that—and again let me repeat, by all sides, even those who oppose our bill, even those who buy the Tory version of even the title of the bill, that it's a quota, which of course we totally disagree with and have ample evidence that it is not a quota bill—to have to destroy the data at great expense to employers is quite draconian and certainly not necessary.

I think that when you have in front of you employer after employer after employer saying they don't think that the people who filled in the surveys felt like they were coerced into doing it, that the kind of information that people were asked to give was voluntary—most people, as I understand it, did voluntarily fill it in; some didn't. I've never been given any reason to believe that anybody who filled in any of the questionnaires felt like they were coerced into doing it.

My final point on this subject is to say to the members that I think that there's a lot of anger and unhappiness and disappointment in the equity-seeking groups about the repeal of the NDP employment equity bill. There are people who worked for years and years and years to get to the point where we did with our bill and are very disappointed that what seemed to be a gain—for some it seemed like a small gain; to others it seemed that we had gone too far—it's very, very disappointing to those people to have the bill repealed.

I think at the very, very least what this committee could do, and I think it could go a long way in helping those people cope with the reality that they are losing that aid to help them achieve equity in the workplace, is that you would be giving a very clear message to those groups that you've heard what they said and what everybody who came to speak to us said about being allowed to keep that data, so that in fact you are being true to your word when you say that you want to see more voluntary action, that you are sending a signal by accepting this amendment, that you want to give them every tool at their disposal that's in existence already so it won't have to cost them more money and more time to help, in their own workplaces, continue with voluntary measures.

So I very much would ask that the government committee members support this amendment. I think it's very important, and you'd make a lot of people out there who are upset and disappointed about the loss of employment equity feel that there is a better chance for them to achieve some equity in the workplace with the data already in existence there.

Mr Clement: I'm speaking against the motion. Ms Churley is absolutely correct when she says that there's

a lot of disappointment, if I can broaden and paraphrase her remarks, that has occurred as a result of this whole process from the start of Bill 79 to the emergence of Bill 8. The divisiveness and the hurt and the emotion are not only felt on one side, they are felt on a number of different sides. We heard deputations earlier this week and last week where people felt very, very strongly in the exact opposite direction of Ms Churley and her party about how hurtful this whole piece of legislation—I am referring to Bill 79—has been, how divisive it has been for visible minorities and persons with handicaps and other members of the designated groups and that in fact the perverse effect of Bill 79 was to increase the feeling of apartness that persons of those designated groups felt.

I think we all have to acknowledge as members of this committee that it has been a very divisive issue in the way it has been tackled through Bill 79. Perhaps those divisions still exist, and certainly it is incumbent upon the government to start to heal those divisions once we are through this process. The divisiveness doesn't stop just with the question of whether we have numerical targets or whether we have quotas, but it is all part and parcel of it.

If you are a member of this society who believes that this act was about quotas, you can call it all you want—numerical targets, voluntary goals—but in fact the net effect of government being involved in this particular aspect of the workplace was quotas. Then the feeling of coercion does not stop at the end of the sections that pertain to quotas; it is imbued throughout the entire piece of legislation.

With that framework in mind, it is the government's view that information collected pursuant to this coercive piece of legislation, that being Bill 79, is in fact tainted by being a part of that process, that there are cases where persons would feel obliged as employees to answer this questionnaire with personal information relating to their personal background, relating to their ancestry, relating to a part of their disability perhaps, that they, all things being equal, did not wish to share with their employer. And for them their employer is the rest of the world. Jobs means a lot in our society and the relationship between employee and employer is perhaps one of the most important in our society outside of the family.

Given that context, it is all very well to say that this is voluntary, but from our point of view the truly draconian aspect is the feeling that one has to divulge this information in order that the employer can reach targets that are set either directly or indirectly by government.

I believe government should not be a party to that. I do not wish to sound provocative when I say that many of the employees affected may have come from countries—and we heard about India from a number of the deputants—that had targets, numerical goals, systems of apartheid that relied on statistics, where the net impact was not just the job or not having a job, which had an impact on their day-to-day existence and whether their existence continued in that country. Those are the people we are dealing with, some of those people who are now Ontarians and Canadians. So I think the draconian aspect that Ms Churley referred to when relating to subsection 1(5) can easily be applied to the original legislation.

We've talked a lot about the time and energy required to collect this data, and certainly we are very sensitive to that. That is why we wish, through our amendments, to pinpoint the kind of data that we think should be destroyed and then obtained voluntarily if the employer is interested in carrying through with equity plans.

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We do not want to throw out all of the data. That has been a misstatement that some of the groups before us have tried to insist that the government bill is all about. But in fact I believe that much of the data can be retained and can be subsequently used and that the personal data can be obtained in the future at a relatively minimal cost and be done purely voluntarily because it is not part and parcel of a coercive piece of legislation such as Bill 79.

In government, as in opposition, as in being a parliamentarian, one always has to weigh the relative costs and benefits of a decision as a legislator. Our view is that the relative cost of destroying the particular data we are interested in is relatively small and in fact goes a long way to preserving individual worth and individual control over one's life and easily outweighs any cost associated with carrying out that policy. That is why I speak against this particular motion.

Mr Marchese: We have a motion on the floor which we will deal with later in terms of my remarks, so I will deal with that subsequently.

What I have is a question. Although I'm sympathetic to the Liberal motion here, I would want to ask the ministry staff or legal counsel, whoever has an answer, to tell me what the effect is of simply striking this particular section out. If we strike it out and it were to pass—it's unlikely of course, but if it were to be the case, what would happen in terms of data and information collection?

The Chair: Who's best equipped to answer that question?

Mr William Bromm: I can start and then maybe David Lillico can add to it. Basically, what we believe would happen by striking out this section is that the status of the law would return to pre-Bill 79 days and it would fall to be determined under, for example, section 14 of the Human Rights Code as to whether or not the collection of that data or the retention of the data continues to be justified if there's a voluntary special program that then meets the requirements of the code.

Mr Marchese: So the effect of this would mean that we wouldn't be able to necessarily keep that information. It reverts back to the old rules where yes, under the Human Rights Code you could be able to collect data, but effectively it would be destroyed. It has the same effect as the government bill. Is that the case?

Mr Bromm: Yes, that's correct. Whether or not you would be able to retain the data or collect further data would depend upon whether or not you're meeting the requirements of the Human Rights Code.

Mrs McLeod: Mr Chairman, I appreciate the fact that this may be a somewhat lengthier discussion than you would like to entertain on each clause of the bill, but I think you'll appreciate the fact that this is really the crux

of the amendment process, because when you have a piece of legislation which essentially creates nothing, there's not very much for us to focus our attention on in terms of amending it. You can't really amend nothing, which is all we'll have left when this piece of legislation passes.

I guess I'm sensing the futility of the discussions that we're about to have this afternoon, given the government's determination to pass the legislation and in fact its equal determination to bring nothing forward in legislation which then would be subject to our review and to further amendment.

But I would urge the government to be less stubborn about this particular clause. It is really difficult to understand why, when the government is removing all employment equity legislation so that nothing stands in law in any event, it seems determined to bring forward an addition to nothing which is so potentially destructive and, in my view, unnecessary and, most certainly from an employer's perspective, highly intrusive. We would have thought one of the government's focuses in virtually every other area of its operation is to be less intrusive with employers and particularly with private sector employers, so why the need to intrude in this way is really beyond me.

I think that there are some practical, some legal implications of proceeding with this particular clause. I also believe that this has very serious consequences and I would urge the government to think about the serious consequences for any future voluntary employment equity plans. We've heard a number of the government members, in response to those who would like to see employment equity legislation stand, say: "Do not believe that we're not committed to employment equity. We want to see employment equity; we just don't like Bill 79 and we don't think there should be a legislative approach." Okay.

But there are some serious consequences in this one clause that you have inserted into this piece of legislation which I think will erode your commitment and any plans that you might bring forward for employers to act on a voluntary basis in the future. I think it is fair to say, and the parliamentary assistant would have to agree to that, that as we've heard deputation after deputation with differing views on the legislation, we have not heard any representation that has said that the data collected should be destroyed. I've not only not heard consensus that they should be destroyed; I've heard consensus that they should not be destroyed.

I would like to draw one particular representation which was made by the Chamber of Commerce. I think that that's one which the government may want to pay particular attention to because they were clearly concerned about the cost to the members of their association, the small businesses of this province, who are interested in proceeding with employment equity and who would be forced—and I used that word advisedly—by this clause to destroy the data that they have collected and which they might wish to use to bring in voluntary employment equity plans.

I have to ask a question, and I'll let it stand as a question, Mr Chairman, so that members of the ministry

staff could answer it later. It's my understanding that there is nothing existing in current law which would prevent an employer from destroying the data which he or she has collected if they did not want to proceed with an employment equity plan; nothing to force that employer to retain the data. Therefore, if you've got an employer who does not want voluntarily to proceed with employment equity, they will undoubtedly want to destroy data that they feel might have been collected in a coercive way and, as I understand it, they're free to do that.

They could be required to destroy data, as the ministry staff has just indicated, by an employee who makes representation to the Human Rights Commission; and members of the government have argued that the answer to employment equity is, in fact, to strengthen the role of the Human Rights Commission. So there is that recourse for any employee who wants to destroy the data.

So again, I don't understand why the government feels that this intrusion into the workplace, this infringement on the rights and freedom of decision-making of employers, is warranted or is in any way necessary, and I would appreciate some clarification from the government on that matter.

We heard this morning from an individual who consults on employment equity who said she's already had people she works with phoning her in some degree of panic, wondering whether or not the legislation will apply to them and they will be forced to destroy their data by this legislation. There's clearly an ambiguity—even with the government's amendment, I think it's an even further ambiguity—in exactly who will be forced to destroy their data if this particular clause remains in the legislation.

I would suspect—and again, Mr Chairman, you can ask ministry staff for clarification if I'm wrong on this—that employers are going to face some legal cost in order to determine whether or not they are forced to destroy their data, or whether they are, in fact, allowed to retain it because the act does not apply to them. Again, I ask a government which is supposedly trying to free the private-sector employer to be less intrusive and impose less cost on them, why they would, for totally unnecessary reasons, want to impose a further cost on employers of having to go through a legal process of determining whether they are free to keep the data that they wish to use, when in fact they are already free to destroy the data if they want to. It just seems to me to defy all logic and common sense.

I just, finally, believe that there is going to be a significant disincentive to any plan which the government might bring forward in the future to supposedly follow up on its commitment to employment equity, albeit on a voluntary basis, because if employers are already put in a position of having to destroy the data, of having to incur the costs of destruction of data, of having to incur costs if they want to keep their data in order to prove the legislation doesn't force them to destroy it, there is going to be a real disincentive for anyone wanting to continue voluntarily with employment equity plans. I really do think it undermines the government's stated commitment to follow this destructive legislation with any kind of

positive and proactive plan. I certainly believe it is not going to heal any of the divisions which the parliamentary assistant has said you want to heal.

I do believe that this government owes an explanation not only to members of the committee and the Legislature, but to employers across the province as to why this clause was there and why it is still apparently going to be there even after the very strong consensus that has emerged through this committee hearing.

The Chair: Okay. Did you want those questions? The first question, as I understand it: Is there anything in the current laws to prohibit an employer from destroying data?

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Mr David Lillico: Some employers who hold personal information that they may have collected under the Employment Equity Act are also employers who are governed by freedom of information legislation; that is to say, the public service, broader public sector employers and so on. For those employers, the freedom of information legislation has a requirement that relates to the destruction of information.

Mrs McLeod: So the force of this clause would then be to overwhelm the freedom of information provisions?

Mr Lillico: What the freedom of information legislation provides is that if institutions governed by FOI have used the information they are to retain it for a year before disposing of it unless individuals consent to the earlier destruction. But that's only some of the employers who are governed by employment equity. For the other employers who are governed by employment equity, as was said before, if those employers misuse the information in a discriminatory fashion there's recourse at the Human Rights Commission against that.

The Chair: The second question, as I understand it—and Ms McLeod, you can correct me on this—is will employers face legal costs in determining whether or not they are free to keep data because they weren't covered by the previous plan?

Mrs McLeod: Exactly. Who will make the determination for all those employers who are going to want to know whether or not the act applies to them or whether they're forced to destroy their data? Will that be done by government, by the ministry, by a quasi-judicial body, or will they have to go to court?

Mr Lillico: I would imagine that employers would be reading the legislation to determine whether or not it applies to them, and if a particular employer in a particular circumstance is unclear as to whether a provision does or doesn't apply to them with certain effect, they would rely on their private legal advice that they would get.

Mrs McLeod: Right. So in fact they will be required to get legal advice. I submit to you that employers cannot read the legislation and determine whether or not it applies to them, because the term "exclusively collected for the purpose of the act" is simply too ambiguous to know whether or not it's going to be interpreted that way. Maybe the clause is meaningless. Maybe the government has no intention of enforcing it, and if so, I don't know why the clause stands.

Mr Lillico: Well, it may be that each employer, in attempting to determine whether or not the clause would apply to them, would look at the term "exclusively" along with the other terms in the legislation to see where they stand in relation to that, to see whether that particular employer when it collected the information was intending to collect it for just the one purpose or whether that employer had additional purposes in mind such as federal contract compliance or Human Rights Code accommodation requirements. If the employer is able to make the determination that that employer collected the information for more than one purpose, then it would seem to me that the meaning of the term "exclusively" is relatively clear and that they would proceed to destruction or otherwise accordingly.

Mrs McLeod: But that's not what employers are experiencing at this point in time. They've read the legislation. They do not know whether or not they are required by law to destroy their information, particularly if they began collecting it after Bill 79 came in.

If what I am being told is that the government does not intend to aggressively prosecute or even attempt to enforce the destruction of information—in other words, you leave it to employers to make their own determination, and I think that's essentially what you've said to me today—if the employers are going to make their own determination, then again I submit, why put this clause into law?

Mr Young: I'll be speaking against the motion. The information that's been collected—a lot of employers haven't collected it yet, but some of them started as early as 1994. This sort of information, when you start to collect it, it begins to become outdated already. So it has limited value. As well, there are a large number of employees—well, no one knows how many, but a number of employees do not self-identify; they don't feel comfortable with such coercive legislation and they won't fill out the forms accurately, so the information is not as useful as it might appear to be.

As well, the information is used to compare current percentages against total employee base, which, if you have a company that's shrinking in size or if you have a company that's located in a geographical area without representation, it becomes less and less meaningful all the time. In other words, it's hard to get your percentages up of minority members or the designated groups if your company's shrinking.

The data supports legislation and it supports a process that does not address conflicts with policies such as seniority. The greatest thing we could possibly do to provide totally equitable hiring is get rid of the seniority rules. The previous government, for reasons known I guess only to them, decided to keep the seniority rules in. It doesn't address that.

As well, as one of our delegations said, a gentleman this morning who's a member of a minority group, numbers do not address attitude, and they likely never will address attitude. I've worked in a workplace under the federal employment equity legislation, and I can tell you that there are times when the numbers support a process which replaces one injustice with another.

I also am speaking against it because I'd like to see the data destroyed because I feel it was collected in what I find to be a morally repugnant way. I want to live in a society where society is colour blind and blind with regard to the abilities of all minority members and everyone has an equal opportunity based on their individual rights and their individual abilities as opposed to what group they belong to.

The Chair: Thank you, Mr Young. Mr Marchese, another comment?

Mr Marchese: Yes, just for clarity, I didn't want to be on the opposite side with my Liberal colleagues on this. That's why I asked that question. If the effect of striking it out means that we go back to pre-Bill 79, then there's still a lack of clarity with business in terms of what they can and can't do with that information. There's no clarity. The effect of what the Tories have moved is to say, "You shall destroy." It's very clear. Those who oppose employment equity will feel great and they can just go home and close shop and get rid of the information.

On the other hand, our motion says that if they are in possession of that information, they shall keep it confidential; they shall not disclose it or use it except for the purposes of implementing a voluntary employment equity program. So that language is quite clear. Their language is clear. Striking it out, however, leaves some ambiguity. That's why I asked the question of staff. Unless Mrs McLeod thinks somehow we're either on the same side or not, my sense is that if we strike it out there's ambiguity and a problem with it, so we need some other language. So if she can clarify that for me, I would feel better, because I think we're trying to accomplish the same thing with our respective motions, but I'm not quite sure that we were. That's why I wasn't clear as to whether or not I could support that motion.

Mrs McLeod: If I may, we were proposing an amendment that we hoped the Conservatives would support, because we really want to see this change. We believe it's an important change to the legislation. I think the difference between our amendment and the NDP amendment is that the NDP amendment could have the effect of forcing employers to keep their data. As a number of the Conservative members have indicated, they have some concerns with the way in which the data may have been collected. Fair enough. If employers share those concerns and want to destroy the data, I think that they should have that right in bringing in a voluntary plan.

The issue of confidentiality did not concern us as much because we believed it was covered by privacy codes and the Human Rights Code. So we didn't feel it was necessary to protect the confidentiality of the data. We did not want to do anything which would force employers to keep the data. What we wanted to do was establish a truly voluntary environment for the employers in dealing with employment equity in the first place. I truly believe that, philosophically and practically, this is one that the government should be able to support.

Mr Crozier: Just a question, I guess, of staff. In the event that our amendment should not pass and in the

event that the NDP amendment should not pass—and I don't want to assume anything—I see there are no penalties in this act. In other words, what happens if the government amendment does pass and they don't destroy it? I'm not suggesting that there should be a penalty, but I'd just like a clarification of what happens if an employer decides not to do it.

Mr Lillico: Yes, there are no penalties specified in the legislation. However, if persons who retain this information use it in a discriminatory fashion, then there would be recourse by the employee to the Human Rights Commission.

Mr Crozier: Through other legislation? Mr Lillico: Yes, but not through this bill.

Mr Crozier: So what's the point? Mrs McLeod: What does it do?

Ms Churley: That would be my question as a result of that. There's no point, then, to what you're doing here. If it reverts back to having to go before the Human Rights Commission anyway, if that's where it ends up and there are no penalties attached otherwise, I don't see why you're doing it except maybe to make some kind of political point to some segments of the population, except I'm not even sure who those are, because again coming back to what Mr Clement said—I'm sorry, you're from Halton North; I know where everybody's ridings are but—

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Interjection: Mr Young.

Ms Churley: Yes, Mr Young. When I was listening to Mr Young speaking, I wasn't sure if he was hearing what all the groups who came in were saying about the need to keep this information. I heard the exact opposite. I'd like somebody to tell me, because we certainly didn't hear it at this committee, who out there is concerned about this information being tainted somehow. I don't know where that word came from except from Mr Clement himself. It seems to me that the employers at large out there are not threatened and don't feel that they're going to use this information in any negative way.

Now that I've heard more specifically, as a result of the questions which have been asked, what I hadn't heard before in regard to the Liberal amendment, I believe from what I've heard that it would be more confusing to strike it out than our amendment, which I think gives some clarity: Keep the data but it can only be used in certain circumstances.

I would say now, and I want to clarify that point, upon hearing the answers to Mr Marchese's questions around that, that I would hope the Liberals would support our amendment, which is coming up next, because of that. I believe employers wouldn't know if they could keep it or not going back to pre-1979. It would just add more confusion. But I'd also say now that I think the purpose—as the leader of the official opposition said, we're very hopeful—I've been very hopeful and I think the Liberals have been too—that we could get your support on this one aspect in particular.

What I would say is that your position on this doesn't make any sense whatsoever in light of the fact that there

are no penalties attached and it would just have to go back to the Human Rights Commission if somebody—that's the way it is now, as I understand it, so I don't quite understand what's going on and I'm wondering if Mr Clement can make some kind of suggestion as to how we can come up with a motion that we could all agree on that would preserve the data, or is he completely, completely committed to having some of the data destroyed?

Would taking a small break to have a further discussion on this with his colleagues make a difference? I really do believe that for everybody this is a pivotal and important motion, that if we could come to some agreement about keeping the data, it would make us all very happy, I believe. I'm wondering if Mr Clement would agree to that.

The Chair: He's going to get a chance to speak in a minute. We're going to have to get on with this process just a little bit. There are three more people who have asked to speak and when they do, when they have spoken, one of whom is Mr Clement, then I think I'm going to call for a vote on this issue because we just can't talk about it forever.

Mr Maves: This is a tough one. On the one hand, I worry about things like the destruction of information and I have thoughts that Omnibus Consulting, which I have a great deal of respect for, said to me about the use of the information as an indicator light to see if there are problems in people's workforces and so on. On the other hand, I wonder, losing information which may very well be inaccurate anyway doesn't stop companies from conducting outreach programs and from removing physical barriers they've identified from navel-gazing and from educating.

I also go back to the fact that from the beginning in the campaign and here and in the House I've spoken out against the categorization of human beings. Compartmentalizing people and asking people to label themselves, to put themselves into a group, I believe is a slippery slope wherein our society may become more and more fixated with labelling itself and dividing itself up into groups. This behaviour won't get us any closer to our ultimate goal of a society free of discrimination, and if you're against such categorization, then you'd think you'd be against the retention of such data.

I don't feel I'm alone in these thoughts. I think Mr Singh, for one, and Mr Brooks and Mr Ubale all made similar points when they came before the committee.

I've chased down several presenters after committee and talked to them about this very point. Some saw my point of view and some didn't, but I have to stick with my consistency, what I believe to be consistency, and say that I would also speak against the amendments and that we shouldn't keep that data.

The Chair: Mr Clement, maybe you can deal with the question.

Mr Clement: I'll try as best I can, certainly. I share Mr Maves's interpretation of some of the deputations in terms of their complete denunciation of Bill 79 would extrapolate to being concerned about the retention of self-categorization data by someone as powerful as an employer.

Because I was concerned about this particular point that was raised, I think by Mr Marchese, or it could have been by Mrs McLeod, I reviewed my own personal notes, and that's all they are, based on the presentation of the Ontario Chamber of Commerce. The context in which subsection 1(5) emerged in that discussion was their concern that subsection 1(5) would in some way impede their members' ability to comply and be a part of the federal legislation.

Although I did not have an opportunity at that point, because of the constraints of time, I can tell the committee—this is only my interpretation of the section—that it would seem to me that information that was collected not for the exclusive purpose of Bill 79 or a section thereof, but for a purpose that related to Bill 79 or a section thereof, and also for federal contract compliance legislation, could be retained because it was not for the exclusive purpose of Bill 79 or a section thereof.

Through a simple interpretation of what I think is a very clear section, which would be made clearer by a government motion, I think we can alleviate greatly the concerns of the Ontario Chamber of Commerce. So from that perspective, I think we are trying—to answer Mrs Churley's concerns—to go some way to alleviate the concerns that were expressed through the deputations by proposing the amendment that we propose.

Mr Grandmaître: One short question: What about the information that's been collected prior to 1993? Will it have to be destroyed as well, because employment equity in some firms was started before 1993.

Mr Bromm: The wording of the provision exclusively for the purposes complying with the legislation was meant to exclude those employers who, as Mr Lillico already suggested, either were federal contractors compliance employers and already had programs or employers who weren't federal contractors compliance employers but had started employment equity or special program initiatives prior to 1993. So our interpretation of the provision is that they would not be required to destroy their information because they were doing it for purposes in addition to Bill 79.

Mr Grandmaître: This is 1995 and being an employer I want to start my own employment equity program. Who will approve my program? My employees and myself and with no supervision?

Mr Bromm: Of course the Employment Equity Act is still the law until this has its third reading and royal assent, but if you're developing a special program after repeal, then it falls under the provisions of the Human Rights Code. The Human Rights Code itself does not require that you get approval of your program, so it's basically up to the workplace to develop a program that they feel is in compliance with the code.

You can, as an employer, request that the Human Rights Commission review your program, or the Human Rights Commission can at its own behest review a program or an employee in the workplace can ask the commission to review the program, but there is no requirement and basically it does fall to the workplace parties to follow the Human Rights Code and the guidelines that exist under the Human Rights Code for developing a special program.

Mr Grandmaître: So it would be left to the employee to appeal to the commission?

Mr Bromm: Unless the commission itself undertook an investigation of the program or the employer had already requested that the program be reviewed.

The Chair: Mr Grandmaître has moved that subsection 1(5) of the bill be struck out. Is it your pleasure that the amendment carry?

Ms Churley: On a point of order, Mr Chair. A 20-minute break before the vote: I believe that I can ask for that under the rules, under the standing orders.

The Chair: The vote will be in 20 minutes. We are recessed for 20 minutes.

The committee recessed from 1631 to 1650.

The Chair: Mr Grandmaître has moved that subsection 1(5) of the bill be struck out.

All those in favour of that amendment, signify by saying "aye."

All those opposed, say "nay."

In my opinion, the nays have it.

That amendment is defeated.

Any further amendments to section 1?

Ms Churley: I move that subsection 1(5) of the bill be struck out and the following substituted:

"(5) A person in possession of information collected from employees under part III of the Employment Equity Act, 1993 shall keep the information confidential and shall not disclose or use it except for the purpose of implementing a voluntary employment equity program."

Many of the reasons we're making this amendment were made very clear when I spoke about the just-failed Liberal motion. At first I thought I might be able to support the Liberal amendment, but upon questioning it became clear that it just confused the issue more, though I think we are trying to achieve the same objectives here.

I would like to come back to the reason this party is calling for an amendment to this section. I want to say here that I have incredible, profound objections to the kind of language the parliamentary assistant, Mr Clement, is using, words like "have a perverse effect" and "coercion," that somehow it's "tainted." Those kinds of words are in themselves very tainted, in the sense that they suggest that something underhanded and draconian was going on here when clearly all we were trying to do was to allow people to get the information they needed to proceed with employment equity, whether it's legislated or voluntary.

My understanding, from every person I've talked to about the data collected under our bill and data collected under the federal government legislation and data collected on a volunteer basis, is that they're very similar, if not the same. It doesn't make sense, unless it's for some political reason that I truly, honestly don't understand. Except for the few people who were here today who have been alluded to, who didn't make much of a fuss about this anyway, the overwhelming majority of people support keeping the legislation.

I still don't understand the reasoning behind getting rid of this section. I believe this is really going to come back

to haunt the government. From having been in government, I will say frankly that the minister has perhaps given some guidelines, to be mild about it, about what she wants to happen here. But in committee, many times our members—and as a minister it happened to me on lots of occasions—the people who sit around the table and hear representations day after day, would sometimes use their own free will and vote differently from what had been decided earlier with the minister, because they're the ones who are gathering the expertise and the understanding from the long hours of listening to people give representation.

I think deep in the heart of everybody here, everybody knows that the rational thing to do—and I think you could make the minister understand if you supported this—is not to go ahead and make companies destroy data. From what was said this afternoon in response to questions both from the Liberal Party and the New Democratic Party, I think even more now this section doesn't make any sense.

I honestly think this particular section of the bill is going to come back to haunt this government. In my view and in many people's view, to force people to destroy data—you have that on the books—does not look good for the government. It's a very unusual thing to do. I'm going to be careful of my language, but when Mr Clement uses words like "perverse" and "sinister" and "tainted," you have to ask yourselves, as government members, how it looks to ask companies to destroy data when they spent money in good faith and went ahead and collected data that will help them down the road, especially when we've been told that the data that have been collected are similar to or the same as data they would collect under other bills, and that if they had to do it over again they'd collect the same data. I asked many people this question and they all gave me the same answer, that they would be collecting the same kinds of data.

And it would be voluntary. The argument that people felt coerced into giving this information, and that if they had felt they had a choice they wouldn't have, doesn't hold water. I'll tell you why. The NDP government, under Bill 79, consulted widely on our bill, and not everybody agreed. I concede that we heard from some people who didn't agree, but most all the people agreed with our position on being able to keep the data.

Our consultation was so extensive. We talked to people from all over Ontario for months on end. Even before the bill was introduced, the commissioner went out across the province and talked to people. After second reading, there were months of discussions and hearings. The commissioner had an advisory group. The minister had an advisory group. We discussed it time and time again, as MPPs, for a long period, with very diverse groups within our constituencies and within our ministries. The consultation around this was probably one of the widest that's ever been held in government. It was quite full.

When I hear members of the government here today—Mr Maves mentioned it and perhaps others did too, and I think three people were quoted today. I can't remember exactly what they said about data, but to me, that's insulting. As a government, we listened to literally

hundreds and hundreds and hundreds of people over the past few years, and whether or not they supported employment equity as we finally devised it, almost everybody agrees that in order to proceed on any level with employment equity, you have to collect the data. Almost everybody agrees that the data needed and the data we came up with weren't just plucked out of thin air. They came from what we learned from the federal government, from talking to companies that had already done employment equity on a voluntary basis. The kinds of data are very, very similar.

We certainly didn't hear from employees or employers that this was an objection. That's why I'm mystified about the government's position on this. I'm mystified because it isn't one of the things that, from what I've heard over and over again, is at issue here.

What appears to be the biggest things at issue within this bill, and we're going to be coming to some of those sections a little later, are that the bill goes further than just repealing our bill—that's the Education Act and Police Services Act—and the differences in description of what is seen by some to be quota-driven and what we know the bill is really all about, that is, goals and timetables, something you must have in order to have an employment equity plan at all. Whether it's voluntary or government-legislated, you have to have data and you have to have an action plan.

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Those are the areas, and red tape and expense. People have expressed concerns about some of those things, but I haven't heard people express concern about the collection and retention of data.

One thing I heard Mr Clement and others say is that there's some fear that these data could be used for purposes other than a voluntary employment equity program. None of us wants to see that. We're aware, however, that there are already laws in place that could protect those data, but we want to strengthen that by making this amendment, by making it very clear that this is all the data could be used for.

I would again ask the government to consider supporting this amendment on the basis that you're going to have a very difficult time justifying this to the public at large. For a government to ask for the destruction of data, in my view and I think many people's view, could be seen as a real abuse of power. You're going to have a very hard time describing it to people, especially when it becomes clearer and clearer, with the companies out there wanting to do a voluntary program, that you're asking them to spend more money to destroy data and then more money to get these surveys and data collection done all over again, which would be similar or the same.

I don't think it makes sense. Although I'm very disappointed in the destruction of our bill, if there's one area where the government can show some good faith and show its commitment to doing everything it can to aid and assist, as well as any education programs it might undertake, those companies that already have data to move ahead—not to be slowed down, not to have to do things all over again, but to proceed from here with some voluntary action.

Mr Clement: I have three points in response which will explain why I am opposed to this amendment. First, Ms Churley quite rightly zeroed in on the nature of the data and how they are collected and used. The interesting thing about her comments is that if a company has another use for the data in question—that is to say, if they were not collecting the data exclusively for the purposes of Bill 79 or a section thereof—I think it's quite clear and will be made clearer, hopefully, by wording accepted by this committee, that data collected and used for anything other than exclusively for that act are exempt and can be retained for those purposes.

If one wants to divide the world into large businesses and small businesses, we heard testimony from small business representatives, and I recall quite distinctly that they said that a lot of small businesses—I won't generalize and say all small businesses—hadn't even begun the process of collecting the data yet because their time lines were different under the legislation.

So inconvenience to small businesses would be relatively small. It's the larger businesses that, because of the time lines in the legislation, have probably put some time and effort, I would agree, into collecting these data. But those are the very businesses, I would put it to you, that tend to collect this information not just for the exclusive purpose of the legislation but for federal contract compliance or for other jurisdictions or what have you.

So those particular businesses—and again I'm generalizing; there might be a few exceptions, but by and large—I've got Ford in my riding, and Ford, I'm sure, does try to obtain federal contracts for vehicles. I would suggest that they would be exempt and so they would not be put out any more than the small business that has not started to collect the data would be put out.

My third point relates to Mrs Churley's comments about procedure, because while she and her government were engaged in what she describes as extensive consultations, I alluded to earlier today the fact that Mike Harris in opposition, just as Mrs McLeod when she was in opposition before the election, was engaged in his own extensive consultations: town hall meetings, meetings in gymnasiums and auditoriums.

This whole memory cascaded back into my consciousness when Mr Lecky was before us representing the Black Business and Professional Association, because while a member of Mr Harris's staff, which I was from 1992 until 1995, I accompanied Mr Harris to a round table discussion with a number of black business leaders, including Mr Lecky—that was where he and I first met—in 1993, two hours. A lot of the discussion was about what the appropriate role of government should be in the area of equity. We had some very interesting discussions.

It's funny how memory works, but things were not as unanimous as Mr Lecky perhaps thought they were. Maybe they were unanimous in the Black Business and Professional Association, which was one of the groups represented there, but many other individuals and companies and associations were present there, and a lot of people, black business people, came up to us and said, "Hey, this is going the wrong way."

So, from my perspective, the procedural aspect of what we're doing, I feel quite confident, in response to Mrs

Churley, that while she and her government heard from a certain segment of the population, we, in our consultations while in opposition, also heard from a segment of the population, because we didn't have an opportunity to confer pre-election with 10 million people. Then, as a result of the election on June 8 and the campaign—

Mrs McLeod: Is this on the amendment, Mr Chair?
Mr Clement: I thought I was speaking to the amendment.

Mrs McLeod: Isn't the discussion supposed to be on the amendment? It sounds like we've moved into a debate on the general bill, and if that's the case, we're going to be here a very long time—

The Chair: Yes. I would like to remind all the people that we do have an agreement by the subcommittee and the committee that this process will be over by 6.

Mrs McLeod: I submit there's a lot of disagreement about what should happen to the legislation or to Bill 79, a lot of consultation on that before and since, but this is specifically on the destruction of data.

The Chair: So I suggest we get on with the process.

Mr Clement: Let me just conclude my remarks then by saying that there was consultation that we feel comfortable with on issues that were brought up in this legislation as well and I feel quite comfortable with that.

Mr Grandmaître: I do have a question to Mr Clement. You just said that you oppose personally this NDP motion. What about your minister?

Mr Clement: Oh, is that how I said it?

Mr Grandmaître: That's what you said, "I oppose."

Mr Clement: Well, I suppose I should speak for my minister as well. She opposes this amendment.

Mr Grandmaître: Very good.

Mr Jim Flaherty (Durham Centre): I will be succinct; just a couple of minutes. I oppose the motion and my opposition to it is fundamental. Section 10 of the current act provides for workforce surveys: "Every employer shall, in accordance with the regulations, conduct employment equity workforce surveys and collect other information to determine the extent to which members of the designated groups are employed in the employer's workforce." And then if we go to the regulations, we find in regulation 390 for 1994 that schedule I is the workforce survey questionnaire with the four questions with respect to the four groups. The fourth question asks, "Based on this description, do you consider yourself to be a member of a racial minority, yes or no?" That, to me, asks for labelling. All the questions do. The specific question concerning race mandates the collection of racial data by a provincial law in the province of Ontario. I think it's fundamentally wrong that the government would require by law that this type of data be collected.

I do not believe in segregation; I believe in integration and the fruits of that fundamentally mistaken legislation should be destroyed, which this section would provide. We should not collect racial statistics in Ontario; we should not collect them in Canada. A person's race should be no business of the government of Ontario or

the government of Canada. Our governments should know no colour. We prohibit discrimination on the basis of race by part I of the Ontario Human Rights Code and we should not be collecting data on the basis of race, and where we have, we should destroy it.

Mrs McLeod: I just want to make a number of points in response to the parliamentary assistant. He can respond if he chooses, specifically on the issue of the destruction of data. I would be very surprised if there was any consultation before the election or since the election with any employers on the issue of whether or not they wanted to have their data forcibly destroyed by the legislation.

I guess the question I have is how you as a government, whatever your individual views are on the data, can set yourself up as being the judge as to whether or not employers would find their particular data collection useful or not useful and why you would not have faith that the employer will make a discreet decision about whether to use the data they've collected.

I simply don't understand why there is this need for intervention. I wonder if you have discussed with the minister the submissions that have been made. There really is no virtue in just hanging on to something that was not thought through, was not consulted on. All the rest of it you can make your case for having consulted on, but that just doesn't hold up when you look at the submissions the committee has had. I'd be very interested in specifics of employers you've consulted with on the destruction of data and found support.

I have to finally ask you very specifically: If an employer did collect the data exclusively for the act, because they didn't intend to do it until the act was in place, but they have now decided they would like to voluntarily continue with an employment equity plan and they would like to use their data, what's the problem with that?

Mr Clement: This is the employer.

Mrs McLeod: Yes. They collected it exclusively because that's why they started.

Mr Clement: Again, when you are a parliamentarian you have to balance, in certain cases, relative costs and relative benefits, and in this particular case it's the government's view that the employee is the one that we are looking to, and his or her rights.

As I have outlined in response to Mrs Churley, we believe that the relative cost for businesses is relatively light, that a lot of the small businesses that would bear the cost disproportionately haven't even started to collect the data yet and a lot of large businesses that had already collected the data were doing it for a multiplicity of purposes. So weighing that against what we perceive to be an unjust situation for the employee, yes, we're on the side of the employee.

Mrs McLeod: But you have not consulted with businesses specifically on that; you have no data from employers to determine that.

Mr Clement: No, the minister has done a good job of talking to a lot of people about this. I can assure you of that and that the minister feels quite comfortable with the amendment which the government will be proposing.

Ms Churley: First of all, I want to clarify something that Mr Clement has said about small business, that it's

hard for small business, but as he probably knows, under Bill 79 only companies of 100 or more employees were covered by the bill. This government recognized for a variety of reasons it didn't make sense for really small businesses to come in under this particular legislation.

I wanted to ask staff if they happen to have in front of them a submission by Lawyers in Support of Equity who are opposed to enactment of Bill 8. Do you have this?

Mr Bromm: No, sorry, I don't have that.

Ms Churley: This is very short. I'll have to read this, because I'd like your opinion on it. These are lawyers who came to give their opinion, and some of it is their short legal opinion as to some of the sections.

They say that: "Pursuant to section 33 of the code, an officer investigating a complaint of discrimination is empowered to request documents and information relevant to a complaint of discrimination. Information collected pursuant to the Employment Equity Act is clearly relevant to determinations of discrimination under the code."

Then they say, "Subsection 33(11) of the code states that no person shall hinder, obstruct or interfere with a person in the execution of a warrant or otherwise impede an investigation of a complaint. The contravention of this section constitutes an offence under section 44 of the code and is punishable by fine of up to \$25,000.

"Therefore any destruction of documents and information pursuant to the proposed subsection 1(5) could constitute a punishable offence under the code."

What's your opinion of that?

Mr Lillico: That was taken into consideration, when the current subsection was drafted, in the phrase "as soon as reasonably possible after this act comes into force."

There may be some employers who would be in a situation where a human rights investigation was already in place and where the investigator had already requested certain information. If an employer is in the situation where it possesses the relevant data and there's an order to produce the data, then the phrase in the legislation, Bill 8, "as soon as reasonably possible," our interpretation is that that means in compliance with all relevant laws, and therefore a situation would not arise where an employer, in order to obey Bill 8, would have to violate a provision of any other statute, the Human Rights Code included.

Mrs McLeod: What about the freedom of information act?

Ms Churley: My colleague the leader of the Liberal Party asked, what about the freedom of information act?

Mr Lillico: Again, the phrase "as soon as reasonably possible" was inserted to accommodate situations of employers holding this data who might also have some obligation under some other legislation in relation to the same data. Again, that phrase was put in to provide for the required flexibility so that the destruction would not have to take place under Bill 8 at a time when the destruction would violate the obligations of that employer under some other piece of legislation, whether it be freedom of information or the Human Rights Code.

The Chair: Does that answer your question, Ms Churley?

Ms Churley: Yes, thank you. Very interesting.

The Chair: Okay, if there are no further comments on that amendment, we'll call for the vote.

Ms Churley: I would like to ask for another 20-minute recess.

The Chair: We will reconvene at 5:40.

Mrs McLeod: We will be having to go into the House for a vote, I believe at 5:45. May I ask your direction in terms of the continuance of the committee?

The Chair: There seems to be a little confusion as to just what we did and didn't agree to. The subcommittee made a decision—unfortunately, the only members here are myself and Mr Clement—that clause-by-clause analysis would end at 6 o'clock on Monday. We reported that back to the committee with the line that the afternoon of Monday, November 27, 1995, be set aside for clause-by-clause consideration.

Mr Clement: There's a 30-minute bell.

The Chair: Then there was a motion in the House to grant us time to meet, which motion was amended to remove the requirement that clause-by-clause be finished by 6 o'clock. So what we have is an agreement made by the subcommittee, approved by the committee, but not enshrined by the motion made in the House.

Mr Clement: On a point of order, Mr Chair: Can you make a ruling as to whether the request by Ms Churley is in order, given the prior agreement?

The Chair: Okay. The request of Ms Churley is in order. There's no question about that.

Mrs McLeod: The question is whether or not we ever get to do the other amendments.

The Chair: Right. That the afternoon of Monday, November 27, 1995, be set aside for clause-by-clause consideration was approved by this committee. Was it the understanding of this committee that that was the end of our deliberations on clause-by-clause? Because that's what the subcommittee members that I've been able to talk to, which included Mr Sergio of course, who is no longer on the committee—I didn't get a chance to talk to Mr Marchese—that's what they believed we agreed to.

Ms Churley: It's my understanding that the agreements that subcommittees make are not binding. What perhaps wasn't taken into consideration when that decision was made is how important this clause in particular is to me and some of my colleagues, and we need to be able to get on the record and debate thoroughly, indeed to attempt to change the position of the government members on this. That is the right of those of us sitting on the committee.

It's my understanding that although we attempt to adhere to the decisions made by the subcommittee, it's not binding. As I believe you already stated, if we don't finish the vote today, we'll have to come back and finish clause-by-clause at the next meeting of this committee.

Mr Clement: On a point of order, Mr Chairman: If there's some misunderstanding, let's put it to a vote.

The Chair: Excuse me, Mr Clement. The committee also agreed that the afternoon of Monday, November 27, would be set aside for clause-by-clause consideration. It

wasn't just the subcommittee but the committee that agreed to that.

Mr Grandmaître: Mr Chairman, does that mean that at 6 o'clock those amendments that have not been addressed will be deemed to have been—

Clerk of the Committee (Ms Tonia Grannum): No.

Mr Grandmaître: So we can continue tomorrow?

Clerk of the Committee: On Thursday, the next regular meeting day.

The Chair: I guess the question becomes, is the agreement the committee made initially now binding, the agreement to stop tonight at 6 o'clock?

Mr Grandmaître: So the remaining amendments will not be deemed to have been voted on.

Mrs McLeod: I understand the clerk to be advising that we can in fact return to continue our deliberations on Thursday.

Mr Clement: No. On a point of order, Mr Chair: I presume you're making a ruling that the subcommittee report, as passed by this committee, is binding, so we're done by 6.

Mrs McLeod: Mr Chair, that is not the advice you're being given by the clerk.

The Chair: Excuse me a second. What I said was that the committee agreed that the afternoon of Monday, November 27, 1995, be set aside for clause-by-clause consideration. That's what the committee agreed to. It's not as definitive as it needs to be.

Mr Clement: I would like to move that all the clauses shall be disposed of by this committee by 6 pm—

Mrs McLeod: On a point of order, Mr Chair: The parliamentary assistant is invoking closure on the committee, and I would like to know what the closure rules are that apply to the committee. I understand that the clerk is advising you that unless there is a motion of closure, we are able to come back and discuss this on subsequent afternoons.

The Chair: Ms Churley has asked for 20 minutes for the vote, so we'll recess for that 20 minutes.

The committee recessed at 1722 to 1742.

The Chair: All those in favour—

Ms Churley: A recorded vote, please.

The Chair: Okay. All those in favour?

Aves

Churley, Crozier, Grandmaître, Marchese, McLeod.

The Chair: All those opposed?

Nays

Bassett, Clement, Flaherty, Hardeman, Maves, Stewart, Tascona, Young.

The Chair: On a vote of 8 to 5, the amendment is defeated.

Are there any further amendments?

Mr Clement: I move that subsection 1(5) of the bill be amended by striking out "information collected from employees exclusively for the purpose of complying with part III of the Employment Equity Act, 1993" in the first four lines and substituting therefor "information collected

and compiled exclusively for the purpose of complying with section 10 of the Employment Equity Act, 1993".

Mrs McLeod: We will not be supporting the amendment. It seems pointless to amend something to try to clarify something that made no sense in the first place.

Mr Marchese: I agree with Mrs McLeod's comments but would ask for clarification of the ministry staff. What is the effect of this particular amendment with respect to the collection of data and information? What does it do, one way or the other, with anything related to information?

Mr Bromm: It affects that information that was collected under Bill 79. The amendment itself does not prohibit the collection of data or prevent an employer from collecting data after repeal, but speaks to that data that was collected specifically under Bill 79 and says it has to be destroyed.

Mr Marchese: It only prohibits them from having information that was collected under the previous bill. Is that it?

Mr Bromm: Correct, with the additional proviso that if it was collected exclusively for the bill's purposes.

Ms Churley: So if you collect it for something else, it's okay?

Mr Marchese: We'll be opposing this as well, Mr Chair. I don't think it helps us with any of the arguments we have made with respect to this issue, with any of the arguments that have been advanced by so many deputants here. They really have voted on this matter already. We think they're doing the wrong thing, but I'm not sure it's going to help to try once again to make an argument with respect to this particular motion because we already debated that.

Mr Grandmaître: Why is this amendment before us?

Mr Clement: I can speak to that, with your indulgence. After hearing some commentary from the hearings of this committee, the government wanted to be as particular as possible about what part of the information-gathering we were opposed to. We decided that this particular wording would make it evidently clear which parts we found offensive and which parts we felt should be retained.

Mr Grandmaître: Can the PA give us an example? What group asked you to introduce such a motion?

Mr Clement: No. What I was trying to say was that certain groups, as we well know, had some problems with the thrust of 1(5), and we were trying to meet their concerns by retaining the essence of the government position on this while going to accommodate them as best we could.

Mr Grandmaître: This is what I'm referring to, Mr Chair. What groups made a presentation to this committee and requested such a motion?

Mr Clement: Let me refer again to the Ontario Chamber of Commerce presentation; as I alluded to earlier, there was a concern that the information-gathering would affect their ability to comply with contract compliance legislation of the federal government. We're making it pretty clear here that if it's exclusively for the purposes

of the Employment Equity Act, as it then was, and relates only to section 10; if they're collecting information only for those purposes, that's what we're concerned about, but if they're collecting information for other purposes and other pieces of legislation, that would be allowed to be retained.

The Chair: Does that answer your question, Mr Grandmaître?

Mr Grandmaître: Sort of.

Ms Churley: Can I follow up? If I understand correctly, the parliamentary assistant, Mr Clement, just said that if information was collected for other purposes, it can stay; but if the very same information was collected exclusively for Bill 79 it has to be destroyed. The same information doesn't have to be destroyed if it was collected for something else. Is that what you said?

Mr Clement: I think I've been saying that pretty consistently for the past two weeks, yes.

The Chair: That's what he's saying.

Mr Marchese: The chamber of commerce came here and said, "We don't want to collect the information for the purposes of the employment equity, we want to destroy that, but we want to keep whatever data we've had or collected that was used for some other purposes." Is that what they came to say, Mr Clement?

Mr Clement: No, my understanding from my notes—and I admit it's my notes. The context in which 1(5) occurred for the Ontario Chamber of Commerce in the discussions we had was that they were afraid the section was so broad as to require them to destroy information they were collecting for the purposes of federal contract compliance legislation. One of the things we want to do is make it as clear as possible that it is not that broad, that that type of information, because it is collected for the purposes of two different pieces of legislation, would be retained.

Mr Marchese: To staff: If some of these groups are regulated by the federal government through its own employment equity bill, would they not be obligated under that particular section or law to keep that information? Is Mr Clement saying the two are in conflict and therefore to rid themselves of that ambiguity they need to do this? Is that it?

Mr Bromm: The reason for the provision being worded the way it was is that when Bill 79 was developed, employers who were already contractors compliance employers made representations and said, "We need to have only one data system; it would be less administratively burdensome," because they were already collecting these data under the federal program. Because they are mandated to collect the data under the federal program, it was considered inappropriate to require them to destroy data under a piece of provincial legislation when they had one single data bank.

1750

Mr Marchese: In effect, this motion before us would in essence guarantee that they be allowed to continue gathering information that falls under a different act, the federal employment equity bill; otherwise it would fall in that dangerous area. Is that it? Mr Bromm: I should clarify that the data that this provision speaks to are not collected under the federal legislation but under the federal contractors compliance program. Employers who would be covered by the federal legislation would not be covered by the Ontario legislation, in any event. The federal contractors compliance program required employers to collect the identical data they collected under Bill 79, and those employers would not have to destroy. But the exclusivity language also applies to employers who may not have been federal contractors compliance employers but had also collected data prior to Bill 79 or for other purposes during Bill 79.

Mr Marchese: The concern I have around this is that our motion, the way we worded it, allowed for the collection of data and said "shall keep the information confidential and shall not disclose or use it except for the purpose of implementing a voluntary employment equity program." Did they collect that information for employment equity purposes or to fall under the federal contractors compliance program? Are they two different things?

Mr Bromm: I'm really not in a position to comment on the specific wording of your amendment, but it could be interpreted that the federal contractors compliance program is not a voluntary program and therefore your amendment would not capture those employers. Mr Lillico may want to speak to that as well. It would depend on how the wording of your amendment would be interpreted, whether or not the federal program was seen as a voluntary program.

Mr Marchese: Is there a comment by another staff person?

Mr Lillico: I don't have anything to add, really.

Mrs McLeod: To clarify, if this amendment were not passed—I assume it will—your legislation would require the destruction of the data that have been collected by law under the federal contractors act?

Mr Clement: No.

Mrs McLeod: It would not? Then why is this amendment necessary to allow data collected under the federal contractors act to be kept?

Mr Clement: I believe I was answering a different type of question when I referred to contract compliance. I think the essence of this particular amendment is to make it clear that we are only concerned about the personal information that was required under section 10 of Bill 79 and not for barrier removal or any other type of information the employer was collecting under the Employment Equity Act. Barrier removal information they can keep. We just wanted to make it clear that it's the personal information we were concerned about.

Mr Crozier: Notwithstanding the fact that the parliamentary assistant wants to make it clear, he referred to the Ontario Chamber of Commerce, and on page 6 of the summary of recommendations up to this point that was given to us—and I won't read it all—the chamber of commerce said, "We would not be opposed if this section were amended or even removed in order that employers would be able to utilize the information which could be very useful to employers." That seems to go contrary to what the parliamentary assistant used as an example.

Second, it seems even more confusing to me that the information collected under the federal contractors program is not tainted, but if it weren't collected under that program it is tainted, but we might be talking about the very same information. If that isn't confusing, I don't know what is.

Mr Marchese: If the employers are able to keep this personal information, that would worry me. If they're able to keep this personal information for the purposes of doing an Employment Equity Act or voluntary employment equity, I would think that's all right. But if you permit them to keep personal information and use it in ways I'm not quite sure about, I have a concern. You're not following?

Mr Clement: No.

Mr Marchese: If the information were collected for the purposes of the Employment Equity Act, in my view that's great, because there's confidentiality attached to that. If all of a sudden you say, "That's all right, they can keep this personal information under section 10," and there is nothing that says that information should be used for the purposes of employment equity, I have a concern about how that information gets used by the company, because it can be used in nasty ways.

Mr Clement: I share your concern, absolutely, and that's why I think the correct answer to that concern is that there still are proper procedures in the Human Rights Code or in grievance procedures or whatever, a number of different ways where, if the information is used for an improper purpose, there is recourse for the employee.

Mr Marchese: I understand that, Mr Clement. The problem is that most humans don't have a clue that they could take such a grievance in that way to the Human Rights Code. It's all right for us to say there's a Human Rights Code that takes care of those areas where the individual says, "I've been wronged here."

You say it's all right, that you can go to he Human Rights, but by the time an abuse has happened to an individual, the abuse has been done and it affects that individual in more ways than we can understand. It could turn out that that individual may not, in the end, end up at Human Rights for a redress of that particular wrong. Your particular motion worries me in terms of the possible ill-use of those personal statistics.

Mr Clement: That's why we're trying to destroy the personal statistics.

Mr Marchese: But you're allowing them to keep it, you said. Your amendment allows employers to keep this personal information, you said—nothing to do with barriers, but it is personal information.

The Chair: Seeing as how the clock has come around to 6 o'clock—

Mr Clement: Can I answer that question?

The Chair: Obviously, the discussion's not going to end here. We will be reconvening Thursday morning at 10 o'clock.

We're adjourned until Thursday morning at 10 o'clock. *The committee adjourned at 1757.*

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Pupatello, Sandra (Windsor-Sandwich L)

Sergio, Mario (Yorkview L)

- *Stewart, R. Gary (Peterborough PC)
- *Tascona, Joseph N. (Simcoe Centre PC)
- *Wood, Len (Cochrane North / -Nord ND)
- *Young, Terence H. (Halton Centre PC)
- *In attendance / présents

Substitutions present / Membres remplaçants prèsents:

Bassett, Isabel (St Andrew-St Patrick PC) for Mr Kells

Churley, Marilyn (Riverdale ND) for Mr Wood

Clement, Tony (Brampton South / -Sud PC) for Mr Danford

Crozier, Bruce (Essex South / -Sud L) for Mrs Pupatello

McLeod, Lyn (Fort William L) for Mr Sergio

Also taking part / Autre participants et participantes:

Ministry of Culture, Citizenship and Recreation:

Clement, Tony, parliamentary assistant to the minister

Bromm, William, policy analyst Lillico, David, legal counsel

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Kaye, Philip, research officer, Legislative Research Service

Klein, Susan, legislative counsel

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Philippine

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Thursday 30 November 1995

Standing committee on general government

Job Quotas Repeal Act, 1995

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Première session, 36e législature

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Jeudi 30 novembre 1995

Comité permanent des affaires gouvernementales

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 30 November 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 30 novembre 1995

The committee met at 1003 in room 1. SUBCOMMITTEE REPORT

The Chair (Mr Jack Carroll): Good morning, everyone. The question came up at one of our other meetings about the request for reimbursement of expenses by witnesses, and there was some disagreement over that. The subcommittee has met again and unanimously decided that the payment of witnesses would be left to the discretion of the Chair. Only if the Chair made a no decision would that have to come back to the committee for a final decision. So I present that to you today as the report of the subcommittee. Does anybody have any problem with that?

Mr Bart Maves (Niagara Falls): A quick question: Does the Chair have discretion as to whether he just pays what's asked for or does the Chair have discretion to set the manner in which the transportation should have been utilized and so on?

The Chair: Basically he has discretion. We trust that he would use that well.

Mr Bernard Grandmaître (Ottawa East): Does it come back to us if—

The Chair: If the Chair's going to deviate from the request, then that would have to come back to the committee.

Mr Mario Sergio (Yorkview): We know you are going to be using your good common sense.

The Chair: That's right. That's the report of the subcommittee. Any further discussion on that? All those in favour of that report? Okay, the report's carried.

JOB QUOTAS REPEAL ACT, 1995 LOI DE 1995 ABROGEANT

LE CONTINGENTEMENT EN MATIÈRE D'EMPLOI

Consideration of Bill 8, An Act to repeal job quotas and to restore merit-based employment practices in Ontario / Projet de loi 8, Loi abrogeant le contingentement en matière d'emploi et rétablissant en Ontario les pratiques d'emploi fondées sur le mérite.

The Chair: Picking up where we left off on Monday, we were discussing the amendment to subsection 1(5) by Mr Clement. We had extensive discussion on it. Is there any further discussion to be held this morning? It was the third amendment.

Mr Grandmaître: That's the first government motion. As you know, the opposition had introduced a motion which was defeated, and we asked staff what was really the difference between the Liberal and the NDP

amendments. I'd like staff to remind us again of the difference between the Liberal and the NDP amendments and the one introduced by the government.

The Chair: The two that we have dealt with, we have dealt with, so perhaps we could answer that question as an interpretation of this amendment, what in fact it means. Would that be sufficient? Can one of our experts handle that for us?

Mr David Lillico: Does the committee want a brief explanation of the differences among the three versions of subsection 1(5)?

The Chair: I don't want to dwell on the two that we've already dealt with. We've already had amendments that we've dealt with and rejected. I don't want to dwell on those two, I would like to dwell on this particular amendment. To make this one clear, if you need to refer to the two we turned down then feel free to do that, but don't dwell on the other two, please.

Mr Lillico: The amendment that's now before the committee is the government motion to amend subsection 1(5). As the bill has it at the present time, the requirement in relation to destruction of the information relates to information collected exclusively for the purpose of complying with part III of the act. So that refers to all the sections of part III of the act under which information may have been collected from employees.

The motion put forward the other day by the government makes a change so that the information in question is no longer all of the information collected under part III but only some of the information collected under part III, specifically the information collected under section 10.

Under the motion now under consideration, information collected under section 11 or section 12 or the other sections of part III would no longer fall within the category of information that needs to be destroyed if this motion is adopted.

1010

The distinction is that section 10 of the act deals with information provided by employees in the workforce survey as to their status in relation to the designated groups. Individual employees provide that information on the survey, and then, under the regulations, employers make certain determinations in relation to that information provided by individuals, and they compile it. So the information given by individuals and the compilation of that information by the employer, as is required by the regulations, that information would be required to be destroyed if it were collected exclusively for that purpose under the motion we have before us.

But other information, such as information relating to general policies and practices and barrier elimination that employers may have collected in relation just to determining in a general sense what barriers may exist in their workplace, all of that would need to be destroyed under the bill as it's currently drafted. Under the proposed amendment that other information about barrier elimination would not need to be destroyed and employers would be able to retain it.

Mr Grandmaître: Who will determine what is exclusively for the purpose of complying with section 10? Who will decide that the information collected will be exclusively to respond to section 10 of the bill? Who will determine this?

Mr Lillico: As the committee has noted before, there is no external enforcement provision contained in the legislation, so that different employers, we anticipate, will be in different positions as to the purposes for which they collected that information.

Some employers will have collected it only because they were complying with section 10 of the Employment Equity Act; some will have collected it partly for that purpose and partly for the purposes of complying with federal contract compliance requirements. It will be up to the employer in question to make a determination as to what the purpose was for their collection of that information. Those employers will make that determination.

Mr Grandmaître: Or an employee appealing or making a complaint to the Human Rights Commission, I suppose.

Mr Lillico: If there were a complaint by an employee that there had been a discriminatory action taken against that employee arising out of this, then that matter would go to the Human Rights Commission for determination, yes.

Mr Len Wood (Cochrane North): As pretty well everybody is aware, a lot of this information that was gathered was provided on a voluntary basis, and there's a considerable amount of cost and energy that was involved in gathering it. What I'm concerned about, and maybe you can answer this, is how you are going to be able to enforce the destruction of information that, like I said before, employees brought forward voluntarily. The lawyers were involved in compiling this, and employees and employers spent a considerable amount of money in gathering this.

Mr Lillico: As we've said before, there is no external enforcement mechanism in the bill as we have it, and the destruction requirement doesn't encompass all of the information that employees provided, only the part of the information coming out of the workforce survey in section 10 of the act.

Mr Len Wood: There are a lot of groups that have come forward in opposition, presenters that have come forward here saying that they don't want the destruction of any material that has been gathered to take place. The list is quite lengthy: the Toronto Board of Education, the Council of Ontario Universities, the Ontario Chamber of Commerce, the Committee on the Status of Women, the Alliance for Employment Equity, the Ontario Nurses'

Association, the Ontario Secondary School Teachers' Federation, the Ontario Public School Teachers' Federation, the Toronto Employment Equity Practitioners' Association, Lawyers in Favour of Equity—the list goes on and on and on.

There's an enormous amount of opposition out there to wasting of dollars in this particular section of the bill and the amendment that is brought forward. People have put a lot of energy and time into this and they don't want to see all of their time and energy just poured down the drain.

I was hoping that that whole section on destruction of data would be removed. We know, after yesterday, that this government that is in right now is only going to be in for one term, so this information can be used whoever the next government is. You don't have to go back and spend millions of dollars to collect the information again when the information is there. It can be stored and it can be used.

I don't know how else I can get the message across that it is wrong and very destructive on the part of the government to ask for the destruction of data that in everybody's minds was being done for the right thing.

There are a lot of employers and employees out there who would like to continue with employment equity programs in the workplace, because they know that is the way of the future. Other provinces are doing it, the federal government is doing it, there are other jurisdictions all around the world that are doing it.

Just because Ontario is in a mood now of destruction, cut and slash and burn and destroy everything that Ontario stood for, doesn't mean that we have to turn the clocks back 20 years and destroy everything, and this is basically what is happening here.

Mr Tony Clement (Brampton South): Could I-

The Chair: I don't know. That wasn't really a question, so there's no need. Are there any other comments?

Mr Clement: I'd like to respond, if I could. Do you want me to?

Mr Grandmaître: The Chair has a flight to catch.

Mr Clement: Obviously I've overstepped my bounds.

The Chair: No, I'm sorry. You're more than welcome to make a comment.

Mr Clement: Just for the record, I will respond on behalf of the government to Mr Wood's concerns. With respect to other governments in the world collecting these data, he may be correct, although I would go out on a limb and say that South Africa probably stopped collecting these sorts of data when the government changed from minority to majority rule. So there's a trend the other way as well.

I acknowledge that there were some quite vehement deputations in front of this committee regarding destruction of data. Mr Wood is quite correct. It is in replying to those deputations that the government put forward this amendment to restrict the destruction portion to as small a subset of the data collected as possible while still keeping to the principle that we as a government did not wish to coerce out of individuals personal information

such as their racial background or the extent or presence of a disability.

In terms of wasting of dollars, it is my opinion that a number of the large companies that do have these data are probably in the process of modernizing these data, because they do have to always be modernized and brought up to date. If they are using these data for federal contract compliance, among other things, they get to keep the data. A lot of the smaller businesses that are caught by the previous legislation had not even begun to collect these data, so they would not be affected.

My opinion, sir, is that the wastage of dollars which you're quite concerned about, quite legitimately, is small if not non-existent.

1020

Mr Len Wood: In rebuttal response, why would it be a concern of so many presenters coming forward, and this is the position that they have taken, that it is wrong to destroy anything that valuable dollars and energy of people and employers have been involved in collecting?

We're talking about trying to build a stronger, a healthier, a compassionate Ontario, yet employers and employees are going to be told, "Everything you've done over the last number of years as far as collecting data, we have the right, we have a mandate from the election now to destroy." At some point down the road, if you have to reinvest and collect all these data again, the message I'm getting is that you think it'd be well spent to duplicate what has already been done.

I don't believe that it would be money well spent in a few years down the road to expect employers and the employees to be involved in the same exercise again. As I said before, the reaction I'm getting from the constituents and the media is that you only have a one-term government here and a lot of this stuff will have to be redone in three and a half years down the road.

Mr Sergio: Just for my own information on procedure here, is it common to go back and forth, or should we stick strictly to the question and debate the motion? Can I have some direction from you or staff? Otherwise we can spend three days just going back and forth because we do not agree with what one of the members may say. If it is appropriate, I would like to ask yourself or staff to say, "Let's stick to the debate on the amendment or the clause itself." You may not like what I say or what you hear, but I don't think that we should be going back and forth and spend three days on one particular clause.

The Chair: Point well made, Mr Sergio. Any other comments?

Mr Terence H. Young (Halton Centre): I would like to say something for the record. With all due respect to those presenters who came, many of the delegations—and I don't want to name any names, because I'm not that familiar with all their backgrounds—but a large number of those groups were in the employment equity business. That doesn't mean they have a conflict of interest; it means they have a duplicity of interest. In other words, without those data or without this system of employment equity that the former government brought in, a lot of them are going to lose business. We have to keep that in mind.

We have to represent all the stakeholders in the system and all the voters. Mr Wood made a comment that we have a one-term government, and he's speaking from experience, because he was just a member of a one-term government. But the secret to staying in government next term is representing society at large, which is what we're trying to do.

Mr Len Wood: With all due respect, these are not special-interest groups that made presentation just for the sake of being involved in employment equity and information. These are large employers and representatives of large employee groups, visible minority groups, women, people from all different cultures that they have in their workforce. For the member to say that their only interest is in gathering employment equity information is an insult to all of the groups that made presentations.

I've listed them off for the reason of making sure that they are covered on the record. What this member has said now is an attack on all of those groups as far as I'm concerned. It's not acceptable to see these groups, because they make presentations here and are wanting to make sure that, in this particular section, data are not destroyed and their money is not being thrown down the drain, being attacked by a member from the Conservative caucus.

The Chair: There being no further discussion on the motion, I'm going to call for—

Mr R. Gary Stewart (Peterborough): Mr Chair, could I have one question before we vote? I would like an interpretation of the word "exclusively." Would the parliamentary assistant just make a comment on what his interpretation of "exclusively" is, on the information, which in my mind—and which may answer the question of some of them—suggests that there is some material that can be retained.

The Chair: Mr Stewart, that question was asked and was answered.

Mr Stewart: Sorry I'm late, but I would like to know what the answer is. We've been at this thing for seven days. Another five minutes is not going to hurt, Mr Chairman, if I may ask.

The Chair: Okay. Could we have a quick interpretation of the word "exclusively," please?

Mr Grandmaître: That would be the same as you've answered.

Mr William Bromm: The word "exclusively" was put in to ensure that employers who collected data for other purposes were not required to destroy it. For example, employers who were federal contractor compliance employers were not collecting exclusively for Bill 79 purposes, and employers who already had employment equity plans or special programs prior to the passage of the Employment Equity Act who were updating their data under Bill 79 were also not collecting exclusively for Bill 79 purposes, so they would not be required to destroy. So our interpretation of the word "exclusively" is to capture only those employers who collected the data simply because Bill 79 told them that they had to.

Mr Stewart: Since the passing of Bill 79? Is that what you're talking about? Anything prior to that can still be retained?

Mr Bromm: Yes, and anything after the passage of Bill 79 that was collected for other purposes as well. An employer may have collected certain data not only for Bill 79 purposes but because they had to assess accommodation requirements under the Human Rights Code. Those employers would also not fall under the exclusivity wording of the provision and would not have to destroy the data. Again it's a question of that employer asking himself or herself whether or not they were collecting the data simply because Bill 79 told them they had to.

The Chair: Okay. There being no further discussion on the amendment, all those in favour of the amendment please signify by raising your hands. Recorded vote.

All in favour of the amendment?

Ayes

Bassett, Clement, Maves, Parker, Ross, Stewart, Young.

The Chair: All those opposed?

Nays

Grandmaître.

The Chair: The amendment carries. Shall section 1, as amended, carry?

All those in favour? All those opposed? Section 1 is carried, as amended.

Are there any amendments to section 2?

Mr Grandmaître: Yes. I move that section 2 of the bill be struck out, Mr Chair.

The Chair: That particular motion, Mr Grandmaître, is out of order for procedural reasons.

Mr Grandmaître: Can you give me the reasons?

The Chair: The way to express your wishes to remove a total section is to vote against it.

Any other amendments to section 2? Any discussion on section 2?

All those in favour of section 2 being carried? All those opposed? Section 2 is carried.

Any amendments to section 3? Seeing none, any discussion on section 3?

Mrs Marion Boyd (London Centre): I'm worried about section 4, not section 3.

The Chair: Any discussion on section 3?

All those in favour of section 3 being carried? All those opposed? Section 3 is carried.

Any amendments to section 4? Ms Boyd?

Mrs Boyd: Mr Chair—

Mr Grandmaître: On a point of order, Mr Chair: I'm sorry, but the NDP did have a motion on section 2. I think it should be read into the records.

The Chair: It was also out of order. It was the same as yours. There was no need to—

Mr Grandmaître: Didn't you want to read it into the record?

Mrs Boyd: If necessary, sure. We probably should record that that was an amendment that was similar.

The Chair: Backing up, the NDP also had an amendment to section 2.

Mrs Boyd: Which was exactly the same as the Liberal amendment.

The Chair: That it be struck, and that amendment is ruled out of order.

Getting back to section 4, any amendments to section 4?

Mr Grandmaître: I move that section 4 of the bill be struck out.

The Chair: That motion is also out of order for the same reasons that the motion in section 2 is out of order.

Mrs Boyd: I would indicate that the NDP also had a similar motion.

The Chair: The NDP had a similar motion that section 4 be struck out, which is also ruled out of order.

Any discussion on section 4?

Mrs Boyd: In the discussions here in terms of the Police Services Act, I would remind the committee that in fact the following groups called on the government to maintain the provisions in the Police Services Act: the African Canadian Legal Clinic, the Black Advisory Committee, the Black Educators' Working Group, the Federation of Women Teachers' Associations of Ontario, the Ontario English Catholic Teachers' Association and the OSSTF.

It's important I think for people to recognize that there has been a great deal of change in terms of public acceptance of policing as a result of communities which used to be quite actively suspicious of police forces who now because they see that police forces are more representative of the community tend to be more supportive. One of the real issues for us in terms of policing in this province is to try and build that community support for our police forces and to stop some of the very lengthy controversies that have happened around policing.

One of the signals of a truly integrated community is when those who have the authority to enforce the law look like the people on whom they are enforcing those laws. In fact, you'll find that in many communities the efforts of the police services in those communities to find and to seek out appointees to their police force that are more representative of the community have had a very positive effect on the community's acceptance and support of the police force.

It seems to me that this has been in place now long enough that it has shown itself to improve the sense of community accountability around police forces, and I would urge the government not to take this backward step of destroying the employment equity that has already begun to make such a difference in the support of police forces in this province.

The Chair: Any further comment on section 4?

Mr John L. Parker (York East): I would just make the point that I would tend to agree with much of what my friend has said as far as the value of making certain decisions within the police services, but those are best served, in my view, as management decisions so that the management within each police force can make the decisions that are appropriate in each case and staff their complement accordingly to meet the needs of their

particular community, but not by having some statutory requirement come out of Queen's Park that tells them how to do it. It's a matter of how effectively to exercise one's police responsibilities and not a matter of Queen's Park laying out rules as to how hiring is to be done, not in this respect.

Mrs Boyd: If it were possible to do this in a voluntary way—the value of having a representative police force has been known for 100 years. It hasn't happened, and we go right back to the whole purpose of employment equity legislation in the first place. If your government's position that it is unnecessary to have mandatory measures, that this will happen automatically as a result of goodwill and good management, it would have happened and we would never have been into this.

The previous Liberal government and our government knew that there needed to be some way to encourage managements to really look at this, to stop the closed door, "My dad was in the police force therefore it's my right to be there" kind of thing that we know has been the history of policing not only in this province, but quite frankly the history of policing in almost any community that has not taken extensive steps to open up hiring in police forces.

It is a very, very serious mistake, it seems to me, for you to rely on good management skills, whether it's in the police force, the education field, or in private industry or in government, because there is lots of history to show that people make many fine promises and nothing happens unless we're ensuring that it happens because people are required to make plans and to report their success.

The Chair: Any other comment on section 4? Seeing none, all those in favour of section 4 being carried? All those opposed? Section 4 is carried.

Section 5: Any discussion on section 5? All those in favour of section 5 being carried? All those opposed? Section 5 is carried.

Section 6: Any discussion on section 6? All those in favour of section 6 being carried? All those opposed? Section 6 is carried.

Section 7: A little procedural question here. Since section 7 has to deal with the short title of the act, we will deal with the long title of the act first. Is there any amendment to the long title of the act?

Mr Grandmaître: Why would we have to deal with the—

The Chair: Because there is an amendment to the long title of the act, so we need to deal with it first.

Mrs Boyd: I move that the long title of the bill be struck out and the following substituted:

"An Act to affirm systemic discrimination in Ontario."

The Chair: The amendment to the long title of the bill is out of order. Bill 8 has not been altered so as to necessitate such an amendment. Any other discussion on the long title to the bill?

Mr Rosario Marchese (Fort York): Yes, I wanted to make some remarks on the title of this bill. The reason why we moved such a motion, which you've just ruled

out of order, is that we think the title is not just simply incorrect; it's not the truth. It doesn't speak about the truth about what Bill 79 was all about.

The deputants who came in front of this committee found it offensive. Most of the deputants who spoke found it offensive. We find it offensive. It offends us because we know that it doesn't tell the truth. As many of the deputants said, it's a lie. That's in fact what that is.

We wanted to move a motion that said in fact what this is going to do. What Bill 8 is going to do is to affirm systemic discrimination in Ontario, because Bill 79 was intended to rid ourselves of discrimination, systemic discrimination, and to assist those who were most affected by it. So Bill 8 brings us back to the terrible old days where systemic discrimination was the case, and it continues to be the case now by the introduction of this bill. There's nothing that this government has introduced that will deal with systemic discrimination. There's nothing there at all. There are fine words, but the fine words will not help people who have been discriminated against before and will continue to be discriminated against in the future.

The Human Rights Code and the Human Rights Commission will not solve it. They have not managed to solve systemic problems because they weren't set up to deal with systemic problems in the first place. It does from time to time, in individual cases, get to systemic problems but on the whole it is not empowered to do so. And that's the problem. This government is not going to put any money into the Human Rights Commission. They talk about changing the Human Rights Code. I'm not sure what that means. If you're going to change it, I would assume that the changes will help to speed up the cases, but not necessarily in a positive way. If they're not going to put any money, how will they speed up cases? So I see that any changes they might make might further empower the Human Rights Commission to dispose of cases rather than dealing with them effectively.

1040

I'm worried about what this government is saying. I know that some people feel they're doing the right thing, and I don't want to attack people for, or accuse them of, not doing the right thing because I think some of them are sincere.

But I object to the title. We introduced a title that speaks to what we think will happen, what we think existed before Bill 79, and we wanted to put that on the record to say we object to it and we think they're making a very serious mistake, as many deputants have told the members of this committee.

The Chair: Any other discussion?

Mr Stewart: Just a comment: When I look at the title that they have, "systemic discrimination"—

The Chair: Okay, we had-

Mr Stewart: —to me it appears—

The Chair: Excuse me.

Mr Stewart: No, I appreciate that, but I just want to make a comment on what they're saying, that Bill 8 is going to promote discrimination. Bill 79 promoted and emphasized discrimination. We heard it in this chamber

from people who were saying, "You are promoting racism, you're promoting discrimination because of Bill 79."

What I object to was the kind of comments that ours will not. I think what we're saying is that there will be equity in the workplace. It will be done voluntarily, as many of the various organizations that were here said it would, whether it was in the municipal field or in the business field, whatever. We are not giving any credit to management, to police services, boards, whatever, so I just take a bit of offence when we're talking discrimination—

The Chair: We are talking about the title to the bill, so if we confine our comments to that, please.

Mrs Boyd: I would beg to differ with my colleague on one thing that he said. I believe very strongly that everyone in this room is sincere in their views—however differently we may have those views—and that in fact there is no belief of mine, and I would not impute any motive of bad faith to the government in doing this.

That is exactly why we're proposing the title that we are, because we believe very strongly that however sincere the government may be it is the lack of understanding of what constitutes systemic discrimination, the lack of understanding of how all of us are implicated in our own lives in terms of systemic discrimination, because it is hard for us to see in ourselves the kind of discrimination that we have because we come from a perspective, and all of us do that. That is the real nub of systemic discrimination and the problem and the reason.

We're very serious and very clear about why we think this title is necessary: to alert people that if you are not actively working within yourself, within your community, to understand what the roots of systemic discrimination are and how that systemic discrimination shows itself in many different ways in the community, you are in fact affirming systemic discrimination.

By taking away the measures that would have worked to tackle a very difficult issue for all of us—how people perceive and make decisions when they are hiring, when they are promoting, how that decision-making is based in our concept of who has merit and who has not—that is what systemic discrimination is all about. And when a government takes away an action that called upon the entire community to work together to try and recognize and deal with the discrimination that underlies a lot of our relationships with other members of our communities with those whom we hire, with those whom we promote, then in fact it will be taken as a message that systemic discrimination is okay and that we no longer need to ask ourselves those difficult questions and face the fact that all of us do that if we're not constantly working against it.

We are very serious in saying that this act could much more truthfully and much more really be named an act to affirm systemic discrimination in this province, because we believe very strongly that that is the effect of this government's actions.

The Chair: Did you have something new to add, Mr Marchese?

Mr Marchese: Yes, of course. It's important to remember that most of the deputants who came in front

of this committee were offended by the title, were offended by what the title said about job quotas, because they said, "Show us where there are job quotas," the majority of them. The majority opposed what the second part of the title speaks about, merit, because they said, "If merit were indeed the principle, most of us designated groups would be getting the jobs, and we're not."

Mr Stewart talks about people coming in front of this committee and saying Bill 79, I think he was referring to, in fact promoted discrimination and they were offended by it. Other than a few of them, the majority said quite the opposite. I know we want to hear what we want to hear, based on what we are presenting from two ideological positions, but what the majority of people said was not what Mr Stewart was saying. That's clear from the Hansard.

He talks about everyone wanting equity. I know that my colleague here says they're all sincere about that. I want to believe that, but the effect of what they're doing is quite the opposite. So if one is not intentionally doing something that I think will have a negative result, they are unintentionally doing the same thing. If that is the effect, then whether they're sincere or not about what they're saying, in my view it's causing the same discrimination that we were trying to fight.

They say they want equity in the workplace. Because they say it and because Mr Stewart says it, and all the other members on the other side, doesn't mean that it's happened in the past, because it hasn't. That's why Bill 79 was introduced. Because they say it now doesn't mean it's going to happen in the future simply because they will it so. They say these programs should be voluntary. Most of the deputants who came here said the voluntary system didn't work. Oh, yes, there's some small measure of success, but all in all it doesn't work. Because unless, as one of the lawyers came here and said, you have a big stick from time to time, people will not do it.

If you say you want equity in the workplace but will put no resources into making it happen, then equity will not happen. This government's saying we have a serious deficit, and yesterday's budget shows how they're cutting. They're not going to be able to put more money to bring about equity and merit in the system—speaking to the title. They're not going to be able to do it, because there are no resources that will be allocated by this government to make equity happen. So how will it happen? Simply because they say, "We have a zero discrimination policy"? That's not going to make it happen.

The Toronto Board of Education had 120 policies on race relations in 1982. In 1986 they reviewed all those policies, only to discover, through the Hitner Starr report, we hadn't done a thing, but we had great policies. All the policy says is, "My God, we're the most progressive, the Toronto Board of Education system, on race relations in Canada." And we were, on paper. Not until we did something about what those policies should have done, did we move to deal with race relations.

This government says, "We have a zero discrimination policy, zero tolerance." That's wonderful. That's going to make us all feel great. We're going to go home and feel we're all equal. We're not equal, and sometimes we have

to do unequal things to get to equality. Sometimes we have to do that. That's what they call reverse discrimination.

But I wanted to say these comments only to respond to Mr Stewart, because they've heard the arguments.

The Chair: Any other comments on the title of the oill?

Shall the title of the bill carry?

All those in favour? Those opposed? The title of the bill carries.

We'll go back to section 7. Are there any amendments to section 7?

Mr Marchese: This is the short title, right?

The Chair: This is the short title.

Mr Marchese: I'd like to move that the short title of this act be the Systemic Discrimination Affirmation Act, 1995.

The Chair: The amendment to the short title is out of order as it is contingent on the passage of the amendment to the long title, which of course did not pass. Any discussion on the short title, or section 7? All those in favour—

Mr Marchese: It's an offensive title. It is not, in fact, the case; it is, in fact, a big lie. It offends not just me

personally, but many of the deputants that came. They ought to be ashamed of the way they have titled this bill. They know they have titled this bill politically because a number of them in caucus have said, "Whatever you do, don't talk about the reality of this bill; call it the quota bill." So what they have done politically is to say, "This is an act to repeal job quotas," and it's politically motivated. It's for that reason that it offends me. I wanted to say that for the record again.

The Chair: Any other comments on section 7? All those in favour of section 7 being carried? All those opposed? Section 7 is carried.

Shall the bill, as amended, be carried? All those in favour? All those opposed? The bill, as amended, is carried.

Shall I report the bill, as amended, to the House? All those in favour? All those opposed? I will report the bill, as amended, to the House.

That ends our business for today. I just would like to thank all of those who helped me survive my first stint as a committee Chair. I appreciate your cooperation.

The committee meeting for this afternoon is cancelled so that Mr Grandmaître can catch his plane home.

The committee adjourned at 1052.





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STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président: Carroll, Jack (Chatham-Kent PC)

Vice-Chair / Vice-Président: Maves, Bart (Niagara Falls PC)

*Carroll, Jack (Chatham-Kent PC)

Danford, Harry (Hastings-Peterborough PC)

Flaherty, Jim (Durham Centre PC)

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Hardeman, Ernie (Oxford PC)

- *Kells, Morley (Etobicoke-Lakeshore PC)
- *Marchese, Rosario (Fort York ND)
- *Maves, Bart (Niagara Falls PC)

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Tascona, Joseph N. (Simcoe Centre PC)

- *Wood, Len (Cochrane North / -Nord ND)
- *Young, Terence H. (Halton Centre PC)

Substitutions present / Membres remplaçants prèsents:

Bassett, Isabel (St Andrew-St Patrick PC) for Mr Flaherty Boyd, Marion (London Centre ND) for Mr Marchese Clement, Tony (Brampton South / -Sud PC) for Mr Danford Parker, John L. (York East / -Est PC) for Mr Hardeman Ross, Lillian (Hamilton West / -Ouest PC) for Mr Tascona

Also taking part / Autre participants et participantes:

Ministry of Citizenship, Culture and Recreation:
Clement, Tony, parliamentary assistant to the minister
Bromm, William, policy analyst
Lillico, David, legal counsel

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Klein, Susan, legislative counsel

^{*}In attendance / présents





Luthachi

G-8

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Legislative Assembly of Ontario

First Session, 36th Parliament

Official Report of Debates (Hansard)

Thursday 14 December 1995

Standing committee on general government

Committee business

Assemblée législative de l'Ontario

Première session, 36e législature

Journal des débats (Hansard)

Jeudi 14 décembre 1995

Comité permanent des affaires gouvernementales

Travaux du comité



Président : Jack Carroll Greffière : Tonia Grannum

Chair: Jack Carroll Clerk: Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 14 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 14 décembre 1995

The committee met at 1543 in committee room 1. SUBCOMMITTEE REPORT

The Chair (Mr Jack Carroll): We'll get started. We had copies of the subcommittee report for everybody; however, we've made a few alterations to it and another subcommittee report just before we got together here. If you will permit me, I will go through this. I don't think you have a copy of the amended one, so I will read it. It's what has been agreed to by the subcommittee members.

"Your subcommittee met on December 13, 1995, and on December 14, 1995, and recommends the following with respect to Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda.

- "(1) That witnesses are allotted one half-hour for presentations.
- "(2) That public hearings would commence on Monday, December 18, 1995, at 11 am, and that the ministers responsible for the issues in each subcommittee start at 9 am and be allotted a total of one hour and each opposition party be allotted a half-hour for questions.
- "(3) That on Friday, December 22, 1995, the committee would end public hearings at 6 pm rather than the motion that was passed in the House that said 9 pm." We changed that to 6 pm in deference to the fact that Christmas is two days later.
- "(4) That for Toronto hearings, each caucus provide the clerk of the committee with a list of witnesses," which has been done.

"Witnesses will be scheduled by the clerk of the committee in rounds from the lists provided by the caucuses and the list of those witnesses who independently contacted the clerk's office." In other words, there will be four lists: one provided by the government; one provided by the official opposition; one provided by the third party; and a fourth list of people who've asked to make a presentation and whom no one has laid claim to. So there are four lists, and the clerk, Tonia, will go through in order—one, two, three, four; one, two, three, four—so that everyone has an opportunity for an equal number of presentations.

"That those witnesses who telephoned after the deadline"—the deadline for next week being today—"be placed on a waiting list and encouraged to send in written submissions." We already know we're going to have quite a few more than we intended. For the purposes of meetings outside of Toronto, the process is exactly the same, with one small exception, and that is that none of the caucuses will provide a list. They will be provided with the telephone-generated list and they will make up their list from that. Does everybody understand it?

"(5) That the committees travel separately." In other words, we will not travel together as a group. As you know, we're going to split into two committees. We will be travelling separately "to the following communities throughout Ontario," and some of them are wonderful places in the month of January—

Mr Tony Clement (Brampton South): All of them.
Mr Gerry Phillips (Scarborough-Agincourt): I think they're all wonderful.

The Chair: All of them. I'm not used to this political stuff yet.

"Niagara Falls," certainly one of the wonderful ones, "London, Kitchener, Windsor, Ottawa, Sudbury, Thunder Bay, Timmins, Hamilton," and then Peterborough and Kingston will be done on the same day with a half-day in each one. That gives us 11 communities.

"(6) That the committee advertise in the daily newspapers of the cities mentioned above and that in Ottawa the committee also advertise in the one French daily, Le Droit.

"The deadline for requests to appear before the committee in the various cities chosen will be one week prior to the date the committee is actually meeting in the city." In other words, if the meeting is scheduled for the 15th in Sudbury, the deadline for a request to appear would be the 8th, and that would be advertised in the newspaper. The only exception to that will be our first meeting on January 8. We will not have a whole week. We'll only have six days for a deadline there because of New Year's Day, so that will be the only exception.

- "(7) That the Chair of the committee prepare a press release about the committee's hearings on Bill 26.
- "(8) That no witness expenses will be paid" since we are travelling as a very expensive group.
- "(9) That the researcher prepare a weekly summary of testimony received.
- "(10) That the committee delegate authority to the Chair in consultation with the clerk to make any necessary decisions with respect to scheduling witnesses." Obviously, if they're controversial, I will talk to the subcommittee members, and so will Bart.

That's the subcommittee report.

Mr Clement: There was one thing I noted from our subcommittee that you didn't mention, and I wanted it on the record, with respect to cancellations: that they would be in the same rotation as the cancelled party, so that if there is a cancellation from a name derived from list A, the clerk would then go back to list A rather than to the other lists.

The Chair: That was something that we did agree to and that has been left off. We will add that to the subcommittee report.

Mr Rob Sampson (Mississauga West): What's the deadline for the written submissions for the Toronto hearings?

The Chair: The deadline was today.

Mr Sampson: For written submissions?

The Chair: We did not establish a deadline for written submissions. I presume we would take them up to the end.

Mrs Elinor Caplan (Oriole): Usually written submissions are accepted right until the beginning of the clause-by-clause debate or the last day of the public hearing component, and I think that is appropriate.

Mr Sampson: Can I just clarify? I think you said we were starting on the 18th at 11, and then you said we were starting at 9. Which is it, the 18th being Monday? The public hearings starts at 11?

The Chair: On the 18th, the committee will actually start to sit at 9 o'clock. The first two hours will be devoted to presentations by the minister and the two opposition parties. Public presentations will begin at 11.

Mr Sampson: When are the first deputations starting? They're at 11 on Monday?

The Chair: Yes.

1550

Mr Sampson: When are they being advised of that, this being Thursday of the week before?

The Chair: Hopefully today. Five o'clock today is the deadline for the three caucuses to have their lists in.

Any other questions about the subcommittee report?

Mr Bart Maves (Niagara Falls): We're travelling to the same cities but at different times?

The Chair: Yes.

Mr Maves: I'm just wondering what the logic behind that was.

The Chair: Maybe we'll let Mr Phillips, who was part of the discussion, explain.

Mr Phillips: Our caucus felt fairly strongly about that, just because, imagine it goes to Hamilton and we've a member in Hamilton. I think the people who are going to present to the committee are probably among the community leaders, the chair of the hospital board, the chairman of the medical association, the various senior people in the health area, plus I suspect the other committee will hear from the mayor, the chief of police, the chief of the fire organization, the president of the chamber of commerce. Our members felt that they wanted to be there to hear both groups, so it was felt that's the only way it could happen. I think many of them felt that if

they weren't there, somehow or other, to hear, as I say, the mayor or the chair of the hospital or whatever—so it was for that reason.

Mr Clement: Just a point of information, Mr Chairman: I don't have it in front of me, but did you mention the rolling deadlines while we're on the road?

The Chair: Yes. One week prior to the date that we will be in the city will be the deadline for a request to appear.

Mr Clement: Except for January 8, in which case it would be January 2.

The Chair: Except for January 8, and I did explain that

Mr Maves: Will the non-health committee have its own subcommittee? Because if we're in different cities—

The Chair: Yes. There is a motion here for you to appoint your own subcommittee.

Ms Frances Lankin (Beaches-Woodbine): Just a technical point, Mr Chair: We've indicated in the subcommittee recommendation that the ads be placed in the dailies of that city, which I think is fine for everything but Timmins. I'm actually not sure that Timmins has a daily, so I hope we would just allow the clerk the flexibility to check that out, and potentially, if we can make the deadline, get it scheduled in the most appropriate weekly in that area.

The Chair: I guess that's fair, that if we have a city where there is not a daily newspaper, we get an appropriate ad in the right weekly. There is a very distinct possibility that we will have substantial lists before you even get around to advertising this.

Mr Phillips: A small thing: I think there was agreement that next week the two committees would meet in the Amethyst Room and another room, but that they would rotate each day; one day would be one group in the Amethyst Room—

The Chair: That's right. So when we arrive at work—

Mrs Janet Ecker (Durham West): Is someone going to tell us which one we're watching?

The Chair: When we arrive at work on Monday morning, the signs will be posted.

Mr Phillips: Just for each of us to know when to put a clean shirt on. I'm in the Amethyst Room; I'll wear my clean shirt.

The Chair: This room is also televised, but not on anything too exciting.

If there are no further questions on the subcommittee report, I'll have a motion for the adoption of the subcommittee report.

All those in favour? Opposed, if any? Thank you very much on the subcommittee report.

Mr John Gerretsen (Kingston and The Islands): Who will be chairing the second committee?

The Chair: We've got a motion here now for that. We're just trying to get the names sorted out on it. As you know, the motion passed in the House allowing for this committee to split into two pieces, so what we will

be doing here is putting forward a motion to form a subcommittee which will be empowered to do certain things.

APPOINTMENT OF SUBCOMMITTEE

Mr Clement: I'd like to move that a subcommittee be established for the purpose of receiving evidence during the weeks of December 18, 1995, January 8, 1996, and January 15, 1996, from 9 am to 9 pm, on schedules A, B, C, D, E, J, K, L, M, N, O, P and Q of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda; that the subcommittee be composed of the following members: Mr Maves as Chair, Mr Tascona as Vice-Chair, Mr Grandmaître, Mrs Pupatello, Mr Wood, Mr Flaherty, Mr Young and Mr Hardeman; that substitution be permitted on the subcommittee in accordance with standing order 110(c); that the subcommittee be authorized to adjourn from place to place in Ontario in accordance with standing order 121(a); that a majority of the members of the subcommittee, including the Chair, shall constitute a quorum; and that a full Hansard service be provided for all meetings of the subcommittee at which evidence is received.

The Chair: Does everyone understand that motion?

Mrs Caplan: The only thing is, is that going to be the subcommittee that's doing health?

The Chair: No, that's the subcommittee that's doing everything other than health.

Mr Phillips: I think I made a mistake. It should have been Mr Gerretsen and myself on that.

The Chair: Yes, but we have to name the original committee members, then substitutions take place. So we've named the original committee members on that subcommittee.

Any other questions on that?

All those in favour of that motion? Any opposed?

Mr Maves, your committee now can pass the motion independently when you meet to form a subcommittee, and the clerk has that motion for you.

COMMITTEE BUSINESS

The Chair: While Tonia's handing out a copy of an ad, sometimes when witnesses are called people tend to want to appear later on in the week. When witnesses are called, they refuse to meet on Monday or Tuesday. They say they can't be here on Monday or Tuesday. Tonia needs a little bit of a club to fill in the Mondays and Tuesdays. Her suggestion is that if they say they cannot appear on Monday or Tuesday, they're then told that they have to go to the bottom of the list.

Mrs Caplan: Say that again?

The Chair: Tonia has experienced problems with people not wanting to appear on Mondays and Tuesdays and everyone wanting to be in the latter part of the week. She needs a little bit of a club to be able to say to people, "We need to fill up Monday and Tuesday also." What she's suggesting is that she be able to say to people, if they refuse to appear on Monday and Tuesday, they have to take their chances in going to the bottom of the list.

Mrs Caplan: The only thing that I would suggest is that there are some on that list that I know would like to request a specific day, and perhaps we could talk about that, so that could be accommodated wherever possible for the timing, because some are working on substantial presentations that will not be ready until Wednesday or Thursday or Friday.

The Chair: The problem with that, especially in Toronto, when we start making those calls this afternoon or tomorrow, is that everybody's going to say, "I'm not ready for Monday."

Mr Gerretsen: Who makes the choice then as to who should come on Monday?

The Chair: Each party has given us a list of priorities, so she would go with the first person on the list who would be the first person she would call for the first spot.

Mr Gerretsen: As long as it's known to them that they can't come when they want, that they may be pushed down to the bottom of the list and probably not be heard at all, I'm sure they'll be here.

The Chair: Tonia would like us to give her the approval to do that. Does anybody have a problem with that? She won't misuse it. We don't need a motion for that, do we? Does everybody agree on that? Okay.

Now the copy of the ad: There would be two separate ads, obviously. One would be this ad. The other one would be an ad that just said "matters relating to health issues," because of course they're two separate committees, and they would have the phone, the location of the meeting and that kind of information in it. We're just looking at the format of the ad. Anybody see a problem with it? Rob?

Mr Sampson: In this copy of the ad you've got the bullet points for the location, the time and the hotel, but you don't for the dates. Just make sure it doesn't get printed for Monday, January 15, in all the ads; that's what I'm getting at.

The Chair: Oh, the people in the clerk's office are very efficient. They would not—

Mr Sampson: It might slip through and I'd hate to see everybody showing up on January 15.

Mr Phillips: When we're travelling, I'm not sure we agreed we'll go right till 9 o'clock at night. I thought there was some discussion that we may have to break at—

The Chair: Yes, the times will be established.

Mr Phillips: That's fine.

The Chair: The House approved 9 to 9. Travelling time has to be in that, so when we see the logistics of the travelling time, then we'll know what hours we can actually set, so that will be decided as we go along.

Mr Sampson: We are getting into the minutiae of detail here, but periodically, as we've seen today outside, throughout the winter Mother Nature does play havoc, which may force us not to actually get to a particular location or perhaps play havoc with some deputants who can't get from one place to the other in the allotted time.

I don't expect any decision here on that matter, but I think we're going to have to show some flexibility and have to deal with the inevitable fact that we may not get to Sudbury.

The Chair: We basically have no flexibility because we're locked into a very tight schedule.

Mr Sampson: So if we're snowed out of Sudbury, Sudbury's off the list. That's the way it works.

The Chair: I guess the best we'd be able to do then would be to have written submissions from the people who are going to present. Everybody will understand the problem with weather. We don't have an extra week to add in anywhere because we're tied into clause-by-clause. We have to hope that doesn't happen, and if it happens, we'll deal with it as it comes up.

Mr Phillips: I'd hate you to miss out on Kingston, John.

Mr Gerretsen: I'm somewhat concerned about that day being split, because it can take quite a long time to get either from Peterborough to Kingston or vice versa in this kind of weather. I'd like to have some indication—in the other places the committee can sit 12 hours, taking travel time out of it. What do you propose to do with respect to that split day? What kind of time factor are we talking about?

Mr Phillips: I think what we said was, if I might defend the subcommittee, if it's Kingston in the morning, we would be there the night before. We would start sharply at 9 o'clock and we would sit a little bit later in Peterborough. I think that's what we said.

Mr Gerretsen: So, for example, you'd go 9 to 1 and then 5 to 9, allowing four hours to travel and get settled and what have you.

Mr Phillips: I wouldn't think you'd allow four hours.

The Chair: I think what we agreed to was that we'd kind of leave it up to the Chair's discretion. We want to accommodate as many people as we can in both Peterborough and Kingston. If that happens to be a very long day, then it becomes a very long day. We'll see what the requests are before we decide, but we want to be fair. Yes, Mr Maves?

Mr Maves: Just referring back to attending different cities on different days, the question is that when we come back to do clause-by-clause, do all members at that point come back and discuss and vote on clause-by-clause, all aspects of the bill?

The Chair: That's right. We come back together as one committee to do clause-by-clause.

Mr Maves: How would the members not involved in the health side, for instance, when we come back to do clause-by-clause, having not been able to discuss with our colleagues or our members opposite during our travels about the hearings of that day, be able to informatively vote on clause-by-clause?

Mr Gerretsen: It's no different than the 60 amendments on Bill 7 that nobody had.

Mr Maves: I'd just like to go on record to say I actually did have those amendments.

Mr Terence H. Young (Halton Centre): For the record, so did I.

Ms Lankin: On a point of privilege, Mr Chairman: You had them before we did.

Mr Maves: Not before. I sat there and read them with you.

The Chair: Mr Maves, the researcher has informed me that all members of the committee will get the summaries. You will get the summary of your committee, you will get the summary of the health committee and you will have an opportunity to read the summary of the submissions. There will be that input available to all members, despite the fact that they're not on both sides.

Mr Maves: I just wanted that concern to be noted. Thank you.

Mr Gerretsen: And I echoed the Vice-Chair's concern.

The Chair: That basically is the extent of the business we have to conduct.

Mr Maves, you'll have to get together with your committee to decide on a Vice-Chair. Yes, Mrs Johns?

Mrs Helen Johns (Huron): Given that I've never been on committee before, can you explain how we move from one place to another? Are we just going to all drive our own cars from place to place?

The Chair: We will be travelling together. Basically, the north will be airplanes and the route up and down the 401, we'll have a bus.

Mrs Johns: We're all going together?

The Chair: The clerk takes care of all the travel arrangements, so you just pack your suitcase.

Mrs Johns: We just travel together for the week.

The Chair: We just travel together and we'll become real good friends.

If there's nothing else, if nobody else has any questions, enjoy your weekend and we'll see you Monday morning at 9 o'clock. I guess the decision about which room each of us will be in we'll know when we get here on Monday.

Mr Maves: I take it Tonia will be the clerk on the health side. Which clerk will be on the non-health side?

The Chair: Lynn at the back will be the clerk on the non-health side.

Thank you very much. Have a good weekend.

The committee adjourned at 1606.



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STANDING COMMITTEE ON GENERAL GOVERNMENT

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Vice-Chair / Vice-Président: Maves, Bart (Niagara Falls PC)

*Carroll, Jack (Chatham-Kent PC)

Danford, Harry (Hastings-Peterborough PC)

Flaherty, Jim (Durham Centre / -Centre PC)

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Bassett, Isabel (St Andrew-St Patrick PC) for Mr Tascona

Caplan, Elinore (Oriole L) for Mr Sergio

Clement, Tony (Brampton South / -Sud PC) for Mr Kells

Ecker, Janet (Durham West / -Ouest PC) for Mr Stewart

Gerretsen, John (Kingston and The Islands / Kingston et Les Îles L) for Mrs Pupatello

Johns, Helen (Huron PC) for Mr Danford

Lankin, Frances (Beaches-Woodbine ND) for Mr Marchese

Phillips, Gerry (Scarborough-Agincourt L) for Mr Grandmaître

Sampson, Rob (Mississauga West / -Ouest PC) for Mr Flaherty

Also taking part / Autre participants et participantes:

Gilchrist, Steve (Scarborough East / -Est PC)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel: Gardner, Bob, assistant director, Legislative Research Service

^{*}In attendance / présents





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Lundi 18 décembre 1995

Standing committee on general government

Savings and Restructuring Act, 1995

Health issues

Comité permanent des affaires gouvernementales

Loi de 1995 sur les économies et la restructuration

Questions concernant la santé

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 18 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Lundi 18 décembre 1995

The committee met at 0905 in room 151.

SAVINGS AND RESTRUCTURING ACT, 1995

LOI DE 1995 SUR LES ÉCONOMIES

ET LA RESTRUCTURATION

Consideration of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda / Projet de loi 26, Loi visant à réaliser des économies budgétaires et à favoriser la prospérité économique par la restructuration, la rationalisation et l'efficience du secteur public et visant à mettre en oeuvre d'autres aspects du programme économique du gouvernement.

MINISTRY OF HEALTH

The Chair (Mr Jack Carroll): Good morning. Welcome to our first committee hearing on Bill 26. For those of you who are not aware, we have split the committee on general government into two sections. In committee room 1, a subcommittee of this committee is sitting. Ministers Johnson, Leach, Hodgson and Witmer will be appearing in that room. This section is strictly for the health-related issues, so the first item on the agenda is the Minister of Health, Minister Wilson. Welcome. You have one hour of our time, sir. The floor is yours.

Hon Jim Wilson (Minister of Health): Mr Chairman, committee members, thank you very much for the invitation. I should say at the outset that 25 copies of my remarks should be here momentarily. They were going through the photocopier as we left the office across the road.

Mr Chairman and committee members, I appear before you today with one single, all-encompassing request, and that is, let's not play politics with the health of the people of Ontario in terms of the delivery of health care services.

We will be spending a great deal of time over the next few weeks of committee hearings discussing the means of reforming and restructuring Ontario's health care system. There will be honest disagreements about tools and mechanisms.

There should be no disagreement, however, about our goal. We have to focus on the best interests of patients. The one thing about which there can be no argument is that the health care system is in serious financial trouble, serious enough to threaten its stability and, in the long run, its very existence.

Anyone who knows anything about Ontario's health care system recognizes the need to stop tinkering with it

and to move ahead with comprehensive reform of the system itself. Nor do we have the luxury of time. Tough decisions have been deferred so long that we are in a downward spiral requiring urgent remedial action. Ontario's debt as a whole is escalating at the frightening rate of \$1 million an hour. With the exception of our debt, health care is the largest single component of costs.

We do not, of course, plan to cut the overall health care budget, but we will have to do a great deal of fundamental restructuring to keep the total costs at present levels while better targeting care and cutting waste and duplication.

If we can agree at the outset on these two simple things—the need for comprehensive reform and the extreme urgency of the issue—this committee has an historic opportunity. Working together, we can achieve something over the coming weeks that will have a positive effect on the lives of all the people of Ontario for generations to come.

Bill 26 as a whole is large and covers a wide spectrum of issues and legislation. But for all its size, there is little or nothing in the bill that is new or radical.

Omnibus bills are common practice in Canada. Sometimes when they introduce entirely new issues of principle which have never been publicly debated before, they cause concern. This is not the case with Bill 26. Much of the bill merely clarifies, and frequently puts stricter limits on, what has already been done and proposed by previous governments. Much of it merely does what previous governments had put explicitly on their legislative programs, after extensive consultation, but failed to implement.

There was a range of reasons for non-implementation: lack of time, lack of vision and lack of intestinal fortitude. Whatever the reason, it remains true that the vast majority of the measures of Bill 26 have been supported in the past by all the political parties and the public. Today, if anything, the public feels more strongly than ever that we have serious and urgent financial problems which must be dealt with immediately and in an integrated way.

From this consensus, this committee should move forward and refocus on why we are all here—not to fight for the sectoral agendas of special interests; we are here to protect the best interests of Ontarians as a whole.

Bill 26 was introduced by the Minister of Finance to provide the tools to help various sectors of the Ontario economy to meet the minister's new financial targets: municipalities, colleges, universities and schools.

It is the essential backing for the Finance minister's economic statement, which is geared to creating an Ontario which pays its own way and where opportunity outweighs unemployment, and making government a partner in change rather than a burden.

I will of course be dealing with the parts of Bill 26 pertaining to health care: hospitals, physicians, service providers, patients.

The major health care sections of Bill 26 are: the Health Services Restructuring Act, the Ontario Drug Benefit Act, the Health Insurance Act, the Physician Services Delivery Act, and the Independent Health Facilities Act.

But I would caution that the bill has to be read as a whole. The sum is greater than its parts. That's why we presented it as an omnibus, comprehensive bill. Bill 26 amendments and new acts will give the government the tools for a restructuring of the hospital sector, but they go further in providing a blueprint to restructure and integrate the overall health care system.

The government is committed to holding health care spending at \$17.4 billion. Whatever cuts we make will be dedicated to holding spending levels. We will not be successful unless there are fundamental changes in how the Ministry of Health does business and how the hospitals are managed and how the physicians and care providers do business and in the level of understanding of patients throughout Ontario about their health care system.

We don't need to spend more money on health care in this province. I think we have consensus on that. But we do need to spend it better; like the White Queen in Alice Through the Looking Glass, we have to run to stay in the same place. People have to have access to the health care system, and to ensure continued access today, tomorrow and for the next generation, we have to be able to pay for it.

At the same time, the population is aging and becoming more diverse. Needs are changing. Investment must shift to take this into account. Investment must increase in priority areas. This means reinvesting in long-term care, in public health programs, in home care, in dialysis and cardiovascular care, in cancer and other high-level priorities.

This means significant restructuring. Piecemeal changes just won't cut it. It means greater efficiency. It means cost-cutting, particularly in areas where financial responsibility is conspicuous by its absence.

But, and I want to emphasize this, it also means redistribution. Many people who accept that we are making the system more efficient do not know that we are also making it more humane.

Take the example of people who work but earn less than \$20,000 a year. In some cases it would pay such people, particularly those with high drug expenses, to quit their jobs and go on welfare to qualify them to receive free drugs.

No one wants to push the working poor on to welfare rolls, but governments previously did this by setting a \$500 drug deductible on the first \$20,000 of net family

income. So we are lowering the deductible for this group, and my ministry expects that an additional 140,000 people will become eligible for benefits as a result.

Doing this costs money, which has to be found in savings or diverted from elsewhere in the health care system. One of the ways we will generate the resources will be to get people already benefiting from the Ontario drug benefit program to kick in small amounts for each prescription.

Seniors earning less than \$16,000, senior couples earning less than \$24,000 and social assistance recipients will be asked to pay \$2 for each prescription filled. Seniors earning over these amounts, and this group includes some of the most affluent people in Ontario, of which 20% have annual incomes greater than \$50,000, will pay the first \$100 in prescription costs per person each year, and then a dispensing fee of up to \$6.11 per prescription.

We estimate that half of all low-income seniors will pay \$32 or less each year. Half of those on social assistance will pay a maximum of \$8 for a single person or \$24 for a family per year. The revised programs will save an estimated \$225 million each year and cover about 20% of all Ontarians.

I have gone into some great detail about drugs and deductibles partly because they have generated a great deal of ill-informed publicity. Everyone else, that is, all other provinces, already require that people share the costs of their drug programs. Ontario is the last province to introduce cost-sharing, and has done so in a humane and efficient manner.

We have minimized the pain for the poor. We have transferred money from the more affluent, who really do not need society to pay for all of their drug needs, and we have rewarded the working poor for working. This systems approach to the issue of drug costs is typical of the systems approach underlying the entire Bill 26.

The health care system will not be reformed by publishing invitations to special interests for their input, adding up their requests and greasing their wheels, with the squeakiest getting the most grease. Our responsibility as a government is to represent all Ontarians, and Bill 26 demonstrates our determination to do so.

I would now like to turn to discuss the contents and implications of the bill in more detail. As I've already made clear, the interrelationships within the system are crucial, and I'll try to address these as I go along. Nevertheless, for convenience, I will divide my discussion into broad subject groups, and if you want more detail on how the component parts fit together, my staff and I will be happy to answer any questions you may have later.

Let me first turn to hospitals, what we hope can be achieved in that area and how Bill 26 will help us achieve our goals.

Many people fear change. True change does not happen easily and it's never comfortable. Most governments are no different.

The Public Hospitals Act was proclaimed in 1931. A lot of things have changed since 1931, so the previous

NDP government initiated a review of the Public Hospitals Act in 1989. They raised expectations for major reform of the act but unfortunately, for a number of reasons, did not implement those recommendations.

Its review, as indicated by the report's title, was Into the 21st Century, but unfortunately we didn't get into the 21st century. What they did do in terms of legislation to prepare and recognize the changing shape of hospitals and the hospital sector is what's now contained in Bill 26, because nothing really got done. The report was shelved, as I said.

This is not to say, though, in all fairness to all parties and politicians and people in the system, that nothing at all didn't get done. Reality intrudes, whatever government does.

We should not forget that Ontario's hospitals and those who work in them have been living through change for a number of years now. Fewer hospital beds, more patients and less money have become part of their lives. In many ways, it seems that Bill 26 is simply catching up to the daily reality that people in the system now work with.

Communities became actively involved in planning for restructuring under the previous government, through district health councils. Thirty communities involving 134 hospitals across Ontario are today involved in local hospital restructuring projects. This is happening as we speak.

The previous government should be given credit for starting the process. But, as Churchill might have put it, they forgot to provide the tools to finish the job. I've often said that they didn't leave a blueprint of what I was supposed to do with 30 restructuring projects actively coming into the ministry and the 60-some projects going on across the province.

Previous governments cut hospital beds—6,700 to be exact. But by leaving the existing infrastructure in place largely unchanged, they have negated a good start and compounded problems. Much of the staff is still there. The bricks and mortar are still there. The only difference is, they no longer serve patients.

Duplication, overlap, overcapacity in major service areas have remained untouched. Service inefficiencies continue to be rife, and this has to be changed.

The Minister of Finance told the House that the 6,700 acute-care beds closed over the last five years were the equivalent to 30 midsized hospitals.

But the previous government left the system and the taxpayers to cope with the overhead costs of all these redundant bricks and mortar. They never took the needed steps to help hospitals restructure and become more efficient. If we don't become more efficient, we're going to continue to waste taxpayers' money.

There are restructuring studies and initiatives completed or under way, as I said, in about 60 communities across the province.

Our district health council volunteers have been working long and hard and making tough decisions, planning for hospitals and how best to meet their communities' future health needs. They have been sending me their recommendations. Some of these communitydriven restructuring studies have recommended that hospitals merge or close. The volunteers are rightly proud of their work.

The previous government initiated these studies. Let me ask, did they intend them to gather dust on some shelf when they were finished? Are they telling us and these communities that their recommendations were never intended to be taken seriously? Surely they knew that to respond to these community-driven plans, changes would have to be made to the legislation.

Communities knew this. They have told us that there are roadblocks and that we need a process and a structure for implementation that is "results-oriented and action-oriented" and we will see restructuring completed as soon as possible. I will return to our hospital restructuring agenda in just a minute.

0920

The tools to do the job: Let me summarize some of the things we're proposing to do by finally revising the outdated Ontario hospitals act. Major revisions include:

Payments to hospitals: The government has always controlled hospital funding, and this simply clarifies what has been in practice under all governments. Our objective is to make the changes necessary to sustain our health care system into the future and for future generations. This change to the legislation is necessary to allow us to keep our promises to focus resources on direct patient care and to better match resources to patient care needs.

A simple kind of "terms and conditions" for funding that might be applied is, for example, how many transplants the hospital is expected to perform or how many cardiac surgeries, for example at the Ottawa Heart Institute, a subject that's been raised in the House on many occasions. I shouldn't have to personally visit the hospital to ensure that it matches available resources to services the hospital itself considers a priority, as was the case with the Ottawa Heart Institute. There is no intention in Bill 26 that this authority be used to micro-manage hospitals.

Under the NDP, the steering committee reviewing the Public Hospitals Act recommended that, "The Minister of Health should be authorized to contract with individual hospitals and intermediate agencies to obtain specific outputs." So in Bill 26, we're responding to those recommendations.

This government, as you know, Mr Chairman, has no list of hospitals to be closed. With government spending dollars at \$1 million an hour more than it takes in, it's clear that the status quo is not an option.

Hospitals have recognized the need for restructuring the health care system. Much planning has been done, as I said, but the Ontario Hospital Association and the district health councils have asked for help with implementation. A Health Services Restructuring Commission, to which I'll return in a minute, will have the power to implement restructuring plans, including closing, merging or amalgamating hospitals if this is what the local planning bodies determine is the best way to eliminate costly duplication. This will also speed the 60-plus

restructuring studies across the province, ensuring that restructuring takes place in a planned and orderly fashion.

Where a facility is closed, the act will ensure that a physician or health care worker cannot proceed to costly and unnecessary litigation against the former corporation or the government for privileges attached to a facility that no longer exists.

Restructuring the system will drive scarce health care dollars to front-line services where they are needed.

We have set out very clearly our objectives in restructuring our hospital sector: to ensure that quality care continues to be available to Ontarians; to focus resources on front-line patient care; to ensure that we eliminate waste and duplication; to improve the use of existing resources; and to ensure that people's needs are met in the most efficient and effective way possible by integrating delivery of local services.

Hospitals and professional health care managers are asking the government for the tools to do the job. In particular they want two things to carry them through this restructuring period and to meet the objectives I've just set out.

Bill 26 responds to both of the requests.

First, with respect to financial planning, the Ontario Hospital Association and health care professionals have asked that hospital budget reductions be lower in year one and higher in subsequent years so that financial targets could be achieved through restructuring. We have done this by setting reduction targets at 4% in the first year, followed by 5% and 7% in subsequent years—sorry, it's 4%, 5% and 6% of total revenues; it's 5%, 6% and 7% of transfers.

The three-year funding plan for hospitals provided in the economic statement provides certainty in each hospital's resource allocation. Overall, the plan will constrain transfers to hospitals, as I said, by about 4% of their total \$8.5-billion revenues in the 1995-96 fiscal year.

Let's put this in context. Overall government spending is being reduced by 28% over the next two years, internal government spending will be cut by an average of 33%, and the Legislature itself is having its budget cut by 20%.

This is not to argue that hospitals should applaud these actions. Nobody expects that. It's a difficult process for everyone.

But let's keep things in perspective. This government is not going to give special treatment to people who shout the loudest. The Ontario Hospital Association has asked that funding not be reduced across the board, but that reductions contain a differential that recognizes small hospitals and hospitals in high-growth areas. We will do this.

In addition to requesting certainty for financial planning, the OHA asked our government for a set of tools to assist hospitals in carrying out restructuring. Bill 26 provides those tools.

For example, we will allow hospitals to establish crown foundations, thereby making it easier for them to solicit charitable donations. We will develop guidelines for arbitrators that will instruct them to consider employers' ability to pay salary and wage increases, a vitally important point, since labour costs represent about 70% of operating expenses. We will allow hospitals additional means to raise revenues within the parameters of the Canada Health Act.

Provincial Health Services Restructuring Commission: One final tool we were asked for and have provided is the Provincial Health Services Restructuring Commission, which will start work in January. Fairly extensive powers will be devolved to the commission, and clearly we are looking at some sort of completion of the commission's task within a four-year period. At that time, we expect the powers to cease with the task.

I will be issuing a release today indicating that this government will sunset those powers in four years' time and there will be reviews available to the minister and to Parliament during that period to ensure that the commission is carrying out its mandate.

The task of the commission will be to facilitate and accelerate the implementation of hospital restructuring by developing and directing specific restructuring plans. We expect the commission to start with the Metropolitan Toronto District Health Council's recommendations.

The commission will play an invaluable role in assisting with the changes that we all know have to happen to move the health care system from where we are now to where we want it to be in the future. It will be free of the politics of Queen's Park but it will not work in a vacuum. This is key, because, as you well know, restructuring has always been community-driven, and it will continue to be so when the commission is up and running. The community has to be involved in these decisions.

Communities have asked for our help to restructure and the commission will work with local hospital systems and district health councils to identify ways to correct inefficiencies, cut waste and eliminate duplication.

As restructuring proceeds, we will continue to listen to what hospitals have to say on how we can, together, manage through this period of change. Let me make this very clear: The restructuring commission will continue to work with the DHCs to facilitate and accelerate the implementation of the restructuring plans developed in communities across the province. The Ontario Hospital Association itself said in its news release after the economic statement, "the establishment of a health services restructuring commission must make it possible to accelerate implementation of many restructuring projects across Ontario."

The Ontario Hospital Association says that hospitals have long advocated that restructuring is the key to long-term savings, specifically through rationalization of programs and services. These would include mergers, alliances and amalgamations of institutions.

Other statements from third parties supporting urgent action on hospital restructuring include Mr Tom Closson, chief executive officer of Sunnybrook Health Sciences Centre, who said, "We should get on with it and do what we should have done years ago." Mr Mark Rochon, CEO of Humber Memorial Hospital, said, "While hospital restructuring will occur 'fast,' it can be done without hurting patient care."

The Ontario Hospital Association's news release reads as follows: "Hospitals are appreciative of the multi-year nature of today's funding announcement."

Remember always that Bill 26's objective is to make the changes necessary to sustain our health care system into the future. These changes to the legislation are necessary to allow us to keep our promises to focus resources on direct patient care and to better match resources to patient care needs, as I've said.

Why spend on unnecessary overheard and administration costs? Lawyers tell us that drafting of this legislation requires that the Minister of Health obtain these authorities in order that they can be delegated. We will delegate that authority to the Health Services Restructuring Commission.

The people who wrote Metropolitan Toronto restructuring study, well respected in their field, recommended such a body to take the politics out of implementing restructuring studies. The Minister of Health will not be exercising these powers unilaterally.

0930

Voluntary agreements work best and fastest, and that's ultimately what we'd like to see.

Under the previous government, the steering committee reviewing the Public Hospitals Act recommended that "the Public Hospitals Act should authorize the minister, under specified conditions, to require formation of a joint venture or partnership, a federation with a new board of directors or a merger of hospitals."

The previous government heard this advice that said there were circumstances where such an authority may be required to prepare hospitals for the future. However, nothing was done.

The test will always be "the public interest." This terminology was not unknown to previous administrations. For example, one of the recommendations the previous government received was that the Public Hospitals Act should allow "for the regulation of hospitals by the minister through review of performance and intervention when necessary to protect the public interest."

Let me conclude my discussion of hospitals and Bill 26 in this section by assuring this committee that the authority will always be test against the public interest, as clearly outlined in the bill.

Let me turn to the pivotal role of physicians in the health care system and some of the ways Bill 26 will impact on this role. Let's keep in mind what I said at the start: the focus here should be the patient.

We want to continue to work with the medical profession in a relationship based on recognition and respect. Cooperation, fairness and equity do not come from a legal document; they come from the will to work together. Bill 26 provides many of the tools that I am sure will improve partnership and trust between physicians and the government, and I hope this becomes clear.

The province pays almost \$4 billion per year for physician services, approximately 9% of the total provincial budget. This has been increasing at an average of 13% per year during the past decade.

In 1991 a new agreement was negotiated with the OMA. This created a joint management process and gave the OMA representation rights for both fee-for-service and alternative payment physicians.

The agreement also mandated compulsory dues, provided for arbitration on global funding amounts, instituted individual payment thresholds, and prescribed a utilization cost-sharing formula.

In 1993 the social contract agreement placed a maximum on the global funding amount, with the financial target to be achieved primarily through utilization reductions and in-year overpayment recoveries.

However, utilization continued to rise, overpayment accumulated because of a lack of OMA agreement to sufficient levels of in-year recoveries, and none of the necessary schedule of benefit changes were made because of the lack of agreement to reallocate funds.

Several matters of dispute did not get resolved but rather were placed in front of umpires in the alternative dispute resolute mechanism.

So let's be very clear here. Jointly managing a system under tremendous pressure requires all parties to make difficult policy and economic decisions. During the past few years, as a result of the constraints posed by the agreement, the government was not able to proceed with key policy changes such as enhancing payments to rural and northern physicians in order to ensure equitable access to medical services in those areas.

An example in point: Despite a fact-finder's report to the contrary, the government has been forced to reallocate additional money from savings and other sectors to fund the recently announced sessional fee for small-hospital emergency services, because the OMA had refused to agree to reallocation from the physician services budget.

The expiry of the 1993 social contract agreement will see the reinstatement of the 1991 agreement provisions, which will mean a significant automatic increase in funding which is not affordable in the current fiscal environment, and a return to an open-ended system with few controls and incentives for responsible management within our financial means.

The agreements have served neither physician nor public well. We continue to see an exacerbation of physician resource maldistribution. Over an eight-year period of time, only one out of every eight physicians graduating have located in underserviced areas. Why, even the small community of Alliston, the community I represent, just 55 minutes north of Toronto, is today underserviced. Ontarians face a lack of access to basic medical services in an increasing number of communities across the province. There is continued physician disengagement from the rest of the health care system, and uncontrolled utilization increases, with an average of 3% yearly increases over the past few years.

There is a serious lack of appropriate incentives to influence utilization and encourage appropriate care, and there are difficulties proceeding with alternative payment programs because the OMA will not agree on conversion of dollars to fund physicians who wish to be paid on a non-fee-for-service basis.

Our policy priorities are: managing physician supply and distribution; protecting essential and necessary medical services; implementing utilization management measures; strengthening accountability; improving efficiency; using alternative payment mechanisms to support system changes where we can get agreement; making physician payments more current and managing expenditures within the budgetary limits. This is quite an agenda. A lot needs to be done, and it needs to be done quickly.

It is essential that government has the necessary tools and authorities to manage and make changes in a responsive and timely fashion. As I've said, we are totally committed to working with the medical profession to make the changes needed to the system. Our joint goal must be to resolve issues and make sure the health system responds to the needs of the people and providers.

A comprehensive action plan has been prepared and we have had preliminary discussions with the Ontario Medical Association. Some of the changes necessitate support from legislation. These are primarily in the areas of limiting billing privileges in certain areas of the province so as to address the distribution of physician resources, and monitoring and investigating inappropriate billings to improve public accountability of the money spent.

Utilization of physicians services has increased beyond the rate of growth in the population for over 20 years. Payments to physicians constitute 22% of provincial health spending and, as I said, 9% of the total provincial budget.

During the decade from 1984 to 1994, the number of physicians billing OHIP increased 40% while the population grew by only 10.5%. As the number of patients per physician declined, the number of services per patient increased. This has resulted in increased financial pressure on government and the Ontario economy.

As studies have repeatedly shown for years, the current fee-for-service system is unmanaged, unplanned and inefficient. It is imperative to find ways of making health care delivery more efficient and effective. The legislative changes proposed will support the government in putting into place policies and practices which will manage expenditures.

The legislative proposals will permit changes in physician compensation in ways that will help to manage overall health costs, address issues of supply and distribution, and promote greater accountability from this crucial group of providers.

My ministry's objectives with respect to utilization management are:

- —To provide the necessary tools to manage expenditures within a fixed budget.
- —To work in partnership with physicians and other health care providers to improve the quality and appropriateness of medical services provided.
- —To ensure more progressive payment management mechanisms.

The new mechanisms for utilization management under consideration include:

- —Implementing a global hard cap for total physician payments and recovering the majority of overruns from the pool, which will be recovered in the year in which the overrun occurred.
- —Working with the OMA to ensure that new medical services are funded from within the existing pool, changing some of the rules and the schedule of benefits to ensure that opportunities exist for fair payment while eliminating opportunities for abuse, and introducing incentives and disincentives into the schedule to foster appropriate practice patterns and the availability of specialists.
- —Adjusting threshold levels to discourage overutilization.
- —Providing patients and providers with information on costs of health care services, something that's long overdue.

Generally, with respect to provider payment control measures, we're moving in order to ensure financial accountability and controlling billing abuse by health care providers. These are essential program elements. I'm not here to say in any way that provider fraud is a large problem, but we do need tools where we think it's occurring to check out to see whether it is occurring and to refer inappropriate billings and practices to the proper authorities.

0940

Essential parts of this program in terms of management are that we have to be more effective about detecting abuse, we need the authority to properly investigate suspected abuse, and we need effective sanctions to discourage such abuse. The Provincial Auditor, the College of Physicians and Surgeons of Ontario and various internal government reviews have all cited significant weaknesses in the control of billing abuse. As a result, they have recommended strengthening the legislative authority to deal with these problems.

Under the existing act, the general manager of OHIP can only recover inappropriate billings by requiring that cases be referred to the medical review committee or practitioner review committee, as the case may be. The proposed amendments permit the general manager to make direct recoveries without using the review committees. If the provider objects to a recovery of money by the general manager, the provider has a right of appeal to the medical review committee or the practitioner review committee. The request for a review filed by the provider must be accompanied by an application fee, and this fee is refundable if the MRC or the PRC finds in favour of the provider.

This authority will complement that which already exists through the peer review process by providing a means to recover smaller amounts than can be justified being reviewed through the detailed peer review process. This may be of some help to physicians who may wish in the future to deal with billing disputes directly with the general manager and not have them referred to the peer review process through the medical review committee. Smaller amounts should be settled out of those quasi-judicial processes.

Recovery of inappropriate physician billings may take up to six years because of the backlog in the MRC and procedural delaying tactics of physicians and their lawyers. There are lots of cases on the books right now where these things are very prolonged processes. The amendments to clarify and strengthen the authority of the review committees and their inspectors will rectify this problem and ensure timely consideration of problems.

Under the existing act there are no penalties to discourage billing abuse. The provider has only to pay back the money, and is given a year or more to do so. The media has referred to this as an interest-free loan. Amendments to the legislation give the authority to deter billing abuse by providers by charging back-dated interest on inappropriate billings, publicly disclosing the identity of the provider after due process, and charging for the cost of a review committee investigation, which is costing us on average \$22,000 per case.

Excessive referrals: Physicians act as the gatekeeper to the health care system. The role brings with it serious responsibilities not just to the individual patient, but to the strength and viability of the health care system itself. Doctors must therefore be accountable for the expenditure of resources resulting from their decisions.

Currently, there is no means to take action against a physician who makes excessive referrals for lab tests or imaging tests such as X-ray or ultrasound, and for consultation to other physicians. Amendments to the act permit the medical review committee to investigate matters of excessive referrals and to direct the physician to reimburse the ministry for the cost of the referrals based upon its determination of medical necessity. Again, that's the MRC.

Every year an average of 5% of the recoveries recommended by the review committees is lost because of bankruptcy, departure from the province, retirement and various other reasons. Under the proposed amendments, if the general manager or the MRC or PRC determines that amounts are owing to the Ontario health insurance plan, then in the case of an appeal the appeal board can order a security for payment. The general manager will still have the authority to recover overpayments through deductions from monthly remittances to the provider even if an appeal has been filed.

Opting out is no longer a method to avoid recoveries of the plan. If the provider does not voluntarily repay money owing to OHIP, the general manager can require the provider temporarily to opt in.

The provisions of Bill 26 concerning the collection and disclosure of information have caused a great deal of discussion. Let me make very clear that we have to come up with a way to protect patient confidentiality and privacy, and at the same time guard against abuses and the threat of double payments. My government wants to ensure that the privacy issue does not become a red herring which distracts everyone from the enormous sums of taxpayers' money at stake here. At the same time, we take the issue of confidentiality very seriously, so much so that I want to make emphasis today that we recognize the concerns that the public might have in this area of collection of information. I also want to emphasize that

we expect these committee hearings to clarify the provisions in the act around the collection and disclosure of information.

Since the passing of the Health Insurance Act in 1972, patients have been deemed to have consented to the release of their information. For the past 23 years, the general manager of OHIP has routinely received medical information to verify the payment of claims. The amendments to the Health Insurance Act that we're making in Bill 26 narrow the use of the information to the purpose of making payments and the monitoring and controlling of payments, and to other uses that are prescribed by regulation and are consistent with the purpose of the plan, which is OHIP. Use of this information is critical to ensure that the government can responsibly manage the \$3.8 billion in expenditures in the OHIP pool.

There is a trend away from fee-for-service and towards alternative payment programs. For fiscal accountability and planning and to be able to detect double-billing, the amendments contained in Bill 26 introduce the authority to collect patient service information in the same way it is done for services paid on a fee-for-service basis. We are simply modernizing this section of the act.

When a physician is paid by more organizations than just OHIP for his or her services, there is no way or mechanism to find out if the physician is billing twice for the same services. By entering into agreements to exchange information with other organizations such as the Workers' Compensation Board, Correctional Services or private insurance companies, these amendments would permit the ministry to detect such billing abuses.

As well, disclosure of information is allowed for the purpose of providing for more effective management of the health care system. For example, the amendments will permit the ministry to disclose information to the Institute for Clinical Evaluative Sciences for research purposes: Dr David Naylor and his group of expert researchers at Sunnybrook. Research of this nature is essential to provide information to physicians to help them with decision-making and to provide a basis upon which the ministry can plan for the future need for services.

The National Population Health Survey released in October this year asked for the permission of respondents right across Canada to link information in provincial health files. No less than 95% of respondents consented to this provision.

The existing act provides immunity for the general manager of OHIP and ministry staff against any disclosure of information in accordance with the act, and "in accordance with the act" is all-important. The proposed amendments merely extend this provision to the minister and also afford protection to members of the public and health care professionals who provide the ministry with information concerning billing abuse. This is a crucial part of the act, and I want to ensure that during the examination, particularly clause-by-clause, all members fully understand what we're doing here. It is not new and it is not far-reaching.

To recap some of the issues I have discussed so far:

With regard to the collection and use of information, Bill 26 amends critical pieces of the Public Hospitals Act, the Independent Health Facilities Act and the Health Insurance Act to allow the collection of information to prevent fraud, misuse and abuse of the system. The power to collect this information already exists in the Independent Health Facilities Act and is now being extended to other health care facilities. This will ensure that duplicate billings do not occur; for example, from a physician who gets a salary but bills fee-for-service for the same service. It has been estimated that fraud—and it's provider and consumer fraud—to the health care system is in the range of about \$65 million each year.

The information collected will also be used for planning for future services to eliminate waste and duplication.

The information is protected under the Freedom of Information and Protection of Privacy Act and the confidentiality sections of the Health Insurance Act. Names, addresses and personal details and records are of no use in preventing fraud or eliminating waste and duplication.

Meetings are planned with the privacy commissioner, and we've already begun those meetings, to ensure that any concerns he might have are addressed. Amendments can be made to the act if serious concerns arise. The commissioner has already sent over some amendments that he would like us to consider, and we are considering those.

0950

With regard to ministry inspectors, once claims have been paid, the ministry can only investigate inappropriate OHIP billing by referring physicians to the Medical Review Committee. As I said before, the Medical Review Committee process is lengthy and expensive, with an average of \$22,000 being spent per case, limiting it to a certain number of budgeted cases. Therefore, because of the cost, it's limited to a certain number of budgeted cases. We have hundreds of cases in backlog now.

The amendments provide for ministry inspectors to act under the direction of the general manager of OHIP. This is intended to complement the review committee inspections and deal with the cases that are not referred to the committees.

The powers and duties of the inspectors relate only to the provision of insured services.

The powers of the inspectors have been increased so that effective and timely inspections can be carried out by the review committees. Unnecessary delays caused by a lack of authority to compel providers to cooperate with the committees will be eliminated.

Entry and removal of information from a physician's office will only take place if it is necessary to enable the general manager of OHIP to administer the plan and the Health Insurance Act, or if it is permitted under the Freedom of Information and Protection of Privacy Act.

The health care envelope has been sealed at \$17.4 billion for this term of the government. However, I want to remind you that the government pays out, as I said, \$1 million more every hour than it takes in. It's therefore necessary to restructure the system.

As part of that restructuring and reform, the government has developed a cost-sharing plan for those receiv-

ing drugs through the Ontario drug benefit plan. As I said, the revisions to the act and the revisions to the ODB will allow us to bring about 140,000 working poor people on to the program.

The deregulation of the non-ODB drug market will ultimately increase competition. With competition, prices traditionally go down, not up.

Generic drug companies and brand name drug companies both agree that prices will go down, especially as third party insurers will be able to buy in bulk and affect pricing.

The federal government monitors patent drug prices and the Patented Medicine Prices Review Board, an independent quasi-judicial body, prevents successive price increases to patented drugs sold in Canada.

Since the board's creation in 1987, patented drug prices have increased on average 2.1% compared to inflation increases of 3.3%.

As I've said before, the health care system needs to be restructured to ensure that every Ontarian has access to necessary health services.

More than 70 communities in rural and northern Ontario have experienced a crisis in health care. Their ready access to emergency and other health care services has been severely curtailed.

We have enough doctors in this province, but there are several urban areas that have an oversupply of physicians.

Controlling billing privileges is an option designed to address needs of the rural and northern communities for physician services. There is a very generous incentive package offered to physicians, interns and residents which the government hopes will be effective in recruiting and retaining physicians where they are needed.

For every physician over the last eight years who has gone into an area of need or underserviced area, seven have gone into an overserviced area.

I've met and talked with both the Professional Association of Internes and Residents of Ontario and the Ontario Medical Association and I've agreed with them and made it very clear that I'm willing to give our new incentive package, which is the most generous incentive package in the history of the province, a period of time to see if it will work. In other words, we won't move on limiting billing numbers if we see significant progress being made in response to our incentive package.

There's nothing new in the control of billing privileges. BC, Alberta, New Brunswick, Nova Scotia and Newfoundland each have some form of restriction to ensure that new physicians go to areas where they are needed.

BC, Manitoba, Quebec, Nova Scotia and PEI have discounts on billings for new physicians entering practice and Nova Scotia no longer allows physicians to relocate from their current practices.

I want to tell you a little bit about the Independent Health Facilities Act before I wind up.

Significant components of the Independent Health Facilities Act are its quality assurance provisions, safeguards for the health care system from patient charges and the ability for the government to manage the number and location of facilities.

The Independent Health Facilities Act was passed in 1989 and has served the province extremely well in preventing the entry of two-tiered medicine which has plagued other provincial jurisdictions. Amendments that we are making make it possible to enhance quality of care in a broader variety of facilities.

The minister, with the approval of cabinet, may designate as independent health facilities those facilities providing non-OHIP coverage services; for example, liposuction and other cosmetic services and most fertility services.

This responds to the recommendation of a 1990 coroner's inquest into a death related to a liposuction procedure. It was recommended that the ministry ensure that the quality of services in private hospitals and facilities providing non-OHIP insured services be regulated under IHFA-type legislation.

The act can be extended to OHIP services that are similar to those already covered by it, such as echocardiography and a variety of other diagnostic tests.

This also extends the ability to use the Independent Health Facilities Act to manage the number and location of new health facilities and ensure coordination with local restructuring plans.

We must do this in order to prevent duplication and to eliminate waste within the system.

New grandfather provisions ensure that anyone providing a service that is newly brought under the act can immediately apply for a licence; for example, facilities providing the kinds of OHIP and non-OHIP services mentioned above including private hospitals.

Amendments also provide flexibility in responding to community needs and hospital restructuring. The amendments would allow the minister to permit one or more specific persons to submit a proposal rather than having a general RFP process. This would allow one or more specific organizations recommended by the Health Services Restructuring Commission to provide a service needed as the result of a hospital closing.

The amendments would also allow an existing hospital to become a non-hospital ambulatory care facility without having to go through an RFP process.

They would allow licensed operators of facilities that are to be closed in overserviced areas and who are willing to establish a new facility in an underserviced area to be exempt from all of the old licensing requirements.

The amendments will streamline the request for proposal process.

By eliminating preferences that impose unnecessary obstacles to identifying the most qualified person to operate a facility: It will allow the government to consider individuals or corporations that can provided the best service at the least cost, and with a high commitment to community care as well as the highest ability to integrate the service within the existing system or planned reforms.

By eliminating costly and time-consuming appeals that contribute nothing to improved access to and quality of care, but rather waste taxpayers' dollars and increase the delay in getting the needed services up and running.

Amendments to the IHFA will make it possible to add new services to licences instead of having to licence a new facility for each new service, which is rather bizarre when you think about it.

It will confirm the government's ability to address routine relocation issues.

It will allow the director to remove a single service from a licence where there is a quality problem with that service, without having to revoke the entire licence and therefore stopping the facility from providing any other services.

Further, amendments will give the government increased control over expenditures by providing explicit authority to recover inappropriate fee-for-service billings, and they will give the government explicit authority to collect, use and disclose personal information to administer the act; for example, claims payment and utilization data to prevent fraud and abuse of the system, as I've mentioned in other amendments to other acts.

As well, they will allow the government to share relevant information with the College of Physicians and Surgeons of Ontario for quality assurance and with district health councils to assist with integrated planning for service across the province.

Amendments will also grant regulation-making power to charge additional fees to cover administration costs for all licence changes and for quality assessments. They will grant regulation-making power to prescribe conditions for physician affiliation in support of new billing number limitations for specialists, allowing the government to ensure that communities in need of specialists will be able to acquire them in an appropriate and fair manner.

Amendments will give the minister the ability to revoke licences or to remove services from licences in overserviced areas, as I've said, and to offer new licences in underserviced areas to the affected operators, thereby ensuring equitable access to care across the province.

Let me address another issue that has arisen from the tabling of Bill 26, and that's the privatization or Americanization of health services.

The government, in Bill 26, has taken the bias out of health care. We want the highest quality service at the best price. This means levelling the playing field and allowing all service providers to bid to offer those services.

The request for proposal criteria can and will define the manner in which services must be delivered.

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This government wants to develop the Ontario economy by encouraging Ontario companies and service providers. These measures will encourage Ontario health care industries to expand and develop.

Amendments removing bias in the act are planned to take the politics out of health care. Remember, we had a not-for-profit bias in the act which didn't make a lot of sense when many organizations were willing to provide highest quality at best price and a fair tendering process,

and we've done that. Later this afternoon, we'll be announcing the successful tenders across the province in the dialysis tender we put out just a few months ago. You will see there a combination of public sector not-for-profit and independent health facilities for-profit, like some of the clinics we already have up and running in the province.

This government is not Americanizing hospital services. Ontario hospitals will continue to provide insured services to Ontario residents on a priority basis.

Ontario hospitals now provide services to residents of other provinces based on the interprovincial reciprocal agreements.

On an exception basis, hospitals now provide services to out-of-country residents for emergency or compassionate reasons.

While a policy is being developed for the use of excess hospital capacity, any such policy will safeguard the priority of Ontario residents to health care services.

Under the current act it simply says you have to be Canadian to apply. What you do is you get a few of your buddies together, you apply for an incorporation under the Ontario Corporations Act and you set up a shop on Main Street, Toronto, or Main Street, Ontario, and apply through the RFP process. It's ridiculous.

Through the regulatory authority that will be permitted under Bill 26, we can ensure greater restrictions, if that's the wish of Parliament and the people of Ontario, rather than simply having "Canadian," and by the way our lawyers are unable to define what's "Canadian," given that we're not sure whose backing many of the services now being provided through independent health facilities. There could very well be hundreds of independent health facilities out there now that have the backing of American companies. We don't know that because they incorporated and applied through the current process.

We can strengthen that if that's the wish. We could also bring in new services and technology from other countries, if that's the wish, and again, in all of these insured services, it is a single-payor system and OHIP covers the cost for patients. We're not talking about user fees.

Another issue that has arisen is patient education about the cost of their health care. People must understand that the cost of medical services continues to increase with growing rates of utilization. We need to educate patients about the cost of these services and examine the major factors contributing to this growth.

The Ontario Medical Association has expressed interest in reviewing patient utilization factors and implementing some controls, and my ministry is willing to explore options with them.

We need a thorough analysis of utilization patterns in this province.

We are looking at providing cost statements to patients to inform them of the cost of services they receive. This has been tried in a few locations, such as Sunnybrook hospital and a BC pilot project, albeit with mixed results.

We are reviewing the development or setup of a medical review committee to explore alternative options

to deliver service for certain patients with a high level of medical need.

We also need to educate physicians about the best use of scarce medical resources.

Let me add right here that there is not a bottomless well of money with which this government can continue to supply services endlessly. We need to carefully examine and monitor health care priorities, both individually and at the government and physician or other provider levels. Knowing costs, and determining need will help all of us to do our part to sustain the health care system.

Other items I want to comment on, but I'll be very brief.

With respect to investigators and supervisors, the current legislation provides for both investigators and supervisors. These are not new concepts.

There are a couple of sections that deal with no proceeding against the crown. I remind members that these provisions merely ensure that taxpayers' money does not get tied up in court cases but gets directed to front-line services that people need and deserve.

There are regulations re hospital bylaws contemplated in Bill 26. This change eliminates the red tape facing hospitals in obtaining approval of hospital bylaws. There is no longer a requirement that they obtain Ministry of Health approval. Bureaucrats will no longer be micromanaging the wording of hospital bylaws.

There are regulations, as I've said, with respect to physician privileges. You know, what sense is there in providing a process for contesting whether a physician has privileges in a situation where the hospital may be closing? Again, this provision merely ensures that taxpayers are not paying for time and energy wasted in the courts.

The changes ensure that hospitals must prepare and submit physician human resource plans.

Regulations for subsidiaries of hospitals: Planning and implementing plans for the future hospital sector should be made in an environment in which the public has full disclosure of the hospitals' financial resources.

Again under the NDP, the steering committee reviewing the Public Hospitals Act recommended that "the conditions within which hospitals' foundations, or other separate corporations of the hospitals, can carry out their activities" should be defined in legislation and include, "The foundations' transactions with the hospital should be disclosed in the annual audited financial statements and all hospital foundation should be required to disclose their audited financial statements to the public."

The opposition may not dwell on all of these aspects of this legislation and the economic statement, but these changes are welcomed by the hospital sector.

Just to remind you of some of the examples of the tools that were requested and that we're delivering on, these were requested by the hospital sector: multi-year funding commitment—we're delivering on that; commitment to work with the sector on a fair and equitable process to implement funding reductions; guidelines for arbitrators, as I've said; disbanding the Workplace Health

and Safety Agency; halting planning for multiservice agencies; introducing the Health Care Consent Act to streamline and simplify consent-to-treatment legislation; ability to establish crown foundations to make it easier for hospitals to solicit charitable donations; streamlined processes in dealing with the ministry on operating plans and capital projects; and a commitment to increased flexibility to generate revenue.

This will all have to be done within the context of the Canada Health Act, of which I and this government are strong supporters.

In conclusion, I wish to say again to the committee that I am grateful for the opportunity to present you with details included in Bill 26. This government has committed to the people of Ontario that we will deliver a sustainable health care system within a declared funding envelope that is protected. We have committed to eliminating waste, duplication and fraud within our system.

The health care components of Bill 26 will give the government and our service providers the tools we all need to restructure the system, not only to make it financially responsible, but to maintain its high quality and reputation as the best health care system in the world.

Thank you, Mr Chair. I look forward to the comments from the critics and any questions you may have.

The Chair: Thank you, Mr Minister. We now have a half-hour each for the two opposition parties. I presume that you want the minister to stay.

Mrs Elinor Caplan (Oriole): Yes, I would appreciate and expect that he would stay.

The Chair: Okay. Beginning with the official opposition, Mrs Caplan.

Mrs Caplan: Thank you very much. I appreciate the fact that the minister has taken the time, even though we received his written remarks a little bit later. I'm hoping that he will agree that any questions that we place on the record, either during these 30 minutes or in writing during the committee process, will be answered in writing by the minister before the end of public hearings. Can we have that agreement?

Hon Mr Wilson: Agreed; I'll do the best I can. 1010

Mrs Caplan: Thank you very much. I appreciate that. There are a number of things that I wanted to address. I think, if I can, Mr Chair, with some liberty, I'd like to start out by quoting the CSR document when it comes to health care. This is at the back, "The Next Step—Public Involvement." It says:

"Health care"—plus others—"won't be touched....

"We are ready to listen, to learn and to work with anyone who wants to join us and who can show us more creative, more effective ways to end waste and duplication....

"But how we get there will be discussed in partnership with all Ontarians."

My first question to the minister is, does he stand by that comment?

Hon Mr Wilson: Yes.

Mrs Caplan: Thank you, because that's one question that I'm going to be asking presenters who come before this committee: Were they consulted? Did they offer suggestions? Was there advice taken? Do they feel that the process, as well as the substantial issues in Bill 26, addresses their concerns in a way which allows for transparency and scrutiny and lives up to that commitment that was made in the CSR? While the minister says yes, I would predict that the presenters who come before this committee would strongly disagree with what the minister has just said.

I'm going to attempt to outline some of the concerns that we have, but I also want to address, if I can, some of the minister's comments. While he used a lot of very nice words, I have to tell you I know what many of those words mean, and I would say to this minister that your partisanship and your arrogance will be your downfall. When it comes to this legislation, to begin by saying, "We don't want health care to be partisan," and then to go on and suggest that nobody had attempted anything, I would say to him that, with two former ministers sitting here at this table, the minister should read his own words.

I pulled out some of his own words and I thought, as we began Bill 26, and after the minister in his own prepared remarks suggested that previous governments had in fact suggested many of the things he was saying, it might be interesting to remind him about some of the things that he said when he was the Health critic sitting on this side of the table, and ask him, either today if there's time or, if there's not, formally in writing, how he could sit in his place today and not blush when he said the things that he did, given what he said to former governments, and particularly the previous government on Bill 50.

I'm going to quote some of what he said, just to remind him. He said, "If I were the Tory Minister of Health, if we had won the last election and I were the Conservative Minister of Health for this province, if I or any of my colleagues in the Ontario PC Party or in fact the Liberal Party tried to bring in legislation that's this draconian, the NDP would be hanging from those chandeliers." He was referring to the NDP legislation—

Mr Alvin Curling (Scarborough North): He's blushing.

Mrs Caplan: He's finally blushing. It's appropriate, Minister, for you to blush, because in fact many of the provisions that you have put in here, and not only those but an accumulation of powers that I would say to you were never contemplated by the NDP under Bill 50, are included in this legislation as well. Bill 26 has an accumulation of powers for the Minister of Health which he acknowledged in his opening statement today, powers without appeal, without hearing, without access to the courts.

I know he says in here, "Court challenges are messy." Well, Mr Minister, I want to remind you that democracy is also sometimes not as neat as everyone would like, but it is worth the fight to preserve democratic opportunity for people to have hearings, for people to have appeals, and yes, Minister, to have court challenges. For you to sit there and say it's messy, I have to tell you, my blood pressure rose considerably.

You went on to say, "They"—and he's referring now to the NDP—"would absolutely want all of our heads on a serving plate." He's referring now to the fact if he brought in a bill like Bill 50, and what I say to you is that Bill 26 goes far beyond anything that was ever contemplated in Bill 50.

One of the comments that he made that frankly I just find so fascinating is he's now referring to Ruth Grier, and he refers to her as "Dr Ruth" in his comments. I remember the day that he said this. He said, "She, along with Bob Rae and all the NDP caucus, who sit there like a bunch of bumpkins, are going to tell physicians and health care professionals in this province how to do their jobs." This is the minister who in Bill 26, which is before us here today, is not only going to tell them how to do their jobs, because he is defining for the very first time insured services and removing the "medical necessity" component, allowing him and his cabinet to make those kinds of decisions—never before in the history of this province—he's not only going to tell them how to do their jobs; this legislation allows him, Minister of Health Jim Wilson, to say where they will practise, when they can practise, how they can practise and for how much they can practise.

Again, this legislation goes far beyond anything that was contemplated, and he goes on to say of this bunch of bumpkins that he refers to, "They're going to tell every physician exactly what services can be rendered, what services will be paid for and how often those services will be available to the people of this province."

The fundamental question that Jim Wilson asked when he was Health critic, and he put this on the record, he said to the people of Ontario, "Do you trust Bob Rae, do you trust Dr Ruth Grier, to run your health care system?" I would suggest that if he were to just substitute a few of those words and if he today were to stand before the people of the province and say, "Do you trust Mike Harris, do you trust"—and I'm going to leave the word "doctor" out because he was saying that in a very patronizing way towards Ruth Grier, because in fact she's not a doctor, but if he were to say, "Do you trust Jim Wilson to run your health care system?" I think that he would find, and he will find if he listens to what people say as they come before this committee, that the people of this province, those people who deliver the services, those professionals who deliver the services and those non-professionals who deliver the services, and the people who receive their services, the patients and the consumers of health services, would answer his own question by saying, "No, I don't trust Mike Harris and I don't trust Jim Wilson to have absolute control and dictatorial authority over every aspect of the delivery of health services." They would answer that question, "No."

When we look at Bill 26, we find that exactly the same concerns Jim Wilson expressed when he was Health critic he has included in the provisions of this bill. He complained because the previous Health minister said, "Well, we may not use all the powers." We've heard Minister Wilson saying exactly the same thing—"We may not use all of these powers." He said to them what I also found ironic in the minister's own remarks this afternoon, was

her saying, "Well, we may not ever use these widesweeping powers we're taking unto ourselves, the ability to make the decisions behind closed cabinet doors, the ability to bypass any negotiations with the union, the Ontario Medical Association." He went on to say that they, the NDP, brought Bill 50 in—that was the expenditure control plan—in such a draconian way that it was unbelievable to him and to his colleagues that they were getting away with it.

I want to say to you that Jim Wilson and Mike Harris are not going to get away with Bill 26. The people of this province are starting to realize that if the government had had its way, this bill would be law today. That was their intention. They wanted this bill by the time that the House adjourned for the Christmas break. Bill 26 would be law today if Mike Harris and Jim Wilson had had their way. What we are beginning to hear and to discover are the many provisions of this bill.

So I have a question for the minister. You referred to the Information and Privacy Commissioner's concerns. You've said that you're meeting with him. I have a copy of his letter—I'm sure you have read it—and in his letter he asks if you will bring in legislation to protect health information. The question I have for you is, will you make the commitment today to withdraw all of the sections of this bill as they relate to access and disclosure of patient information, those provisions that would say to the Minister of Health that you are no longer accountable and you are no longer accountable publicly because you can disclose that without penalty? Would you remove all of those sections from this bill and make the commitment to do as the freedom of information and protection of personal privacy commissioner has requested, and bring in separate legislation to deal with all of those provisions which are in Bill 26?

Hon Mr Wilson: The short answer is no. If I may be permitted, it boils down to that our provisions are very similar to the provisions contained in Ms Caplan's government's 1989 Independent Health Facilities Act with respect to privacy. Suddenly the privacy commissioner—and this committee will have an opportunity to ask him why-after six years with no problems with respect to disclosure of information under that act, wants a separate health privacy protection act. Now, over the term of the government we're not ruling out maybe having to do something on that, but it's very clear to the ministry lawyers—and we're sawing off between lawyers here now—that Bill 26 and amendments to the Health Insurance Act and to the powers of the general manager and OHIP are fully overridden by the Freedom of Information and Protection of Privacy Act.

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The commissioner has asked in that letter, Ms Caplan, for some amendments, which we're looking at, that would tighten up provisions in Bill 26, and I've already said publicly we'd be willing to do that.

With respect to extending immunity to the Minister, Ms Caplan, I would say, if somebody wrote me a letter about fraud in the system, should I pass that on to the CPSO or OHIP investigators with immunity, as if anyone else? This is not disclosure of the patients' names and

records for out on the street. This is the same security of information that was good enough for your government and good enough for the NDP. It would be a rare case that the minister would need immunity.

You know this is a standard clause in every piece of health legislation that we have and in many, many other pieces of legislation, because I've sat on these committees with you. So to take it out of context and blow it up for the public is a little unfair, given that we think—and by the end of the committee hearings we'll know for sure—that the intent is to strengthen and safeguard records.

You also know that the people who have access to these records, like OHIP inspectors, which, in the cases of patients' records, will be health professionals themselves, so they're bound by oath, they're bound by their colleges and the conduct with respect to confidentiality that must occur as doctors, as health professionals, are also bound by this act and the Freedom of Information and Protection of Privacy Act. There also are extreme penalties in this act if any of those officers of the crown or acting on behalf of the crown or the minister disclose information. So the buck stops with the inspectors themselves. These names and patient records don't go to the Minister of Health and they won't go to the Minister of Health. In this act, there's no way they can.

Mrs Caplan: If the minister were right, I would agree with him. But he's wrong and the commissioner of privacy says he's wrong. He hasn't read his legislation or he doesn't understand his legislation, but this legislation very clearly gives the minister access to information, and the ability to disclose that information, without accountability. You are saved harmless from any effect of that disclosure. That's what the legislation says. Any person who reads that understands that. Those provisions are new. They were not contained before. The minister is clearly and absolutely wrong.

Hon Mr Wilson: No, Mr Chairman—

Mrs Caplan: All we're asking him to do is follow the advice of the commissioner of privacy and bring in his proposals in a separate piece of legislation so that we can have full scrutiny and so we can fully understand that people's records are protected, that their privacy is protected in a way which the commissioner of privacy says is acceptable.

I am very upset to hear the minister today say that he refuses to do that. That's a simple request and he's said no and I don't like that. I also believe that the people of this province will find that an unacceptable response from this minister. He's couching the language in terminology which I think the people will find tremendously unacceptable.

I do want to put on the record some of the other concerns that we have, things that are in this bill that I think we'll be hearing about from presenters and things that the minister did not, I think, accurately reflect in—I don't want to question is motivation, but he did not present in a way that I think people really clearly will understand.

What he's saying is that he is going to set up a commission, an unelected, unaccountable commission, to have the powers that he is taking unto himself. He's

saying: "First of all, I'm going to have the power in Bill 26 to close, to merge, to amalgamate. I'm going to have the power," he says, "to set levels of service in every hospital and every facility across this province." Then he's going to give that power to a commission—unelected, unaccountable commission—to do as it wishes.

I would suggest to you, Mr Chairman, that the minister who sits here and says, "I don't think that this should be partisan"—I would say to him, I think this should be accountable. You're setting up a commission with no accountability and you're trying to wash your hands of it and suggest that no, no, no, this isn't going to be your decision. Well, I would ask that you rethink that.

There is the ability in the Ministry of Health Act to set up as many advisory committees as you wish. You do not need to have this restructuring commission set up with the powers and authorities. Those must remain with you. If, as you said, the buck stops with you, then have the courage to stand up in this place today and admit the fact that you have those powers.

I would agree that there are some provisions in this legislation—some, and I mentioned some of them when I spoke in the House—and changes that are needed. I admitted that and I said that particularly when it comes to transparency of hospital records and foundations—I referred to that. But the minister today talks about Into the 21st Century and one of the questions I would like to ask is whether or not the recommendations of Into the 21st Century are included in Bill 26, because as I read it, they are not. What the minister has attempted to do is to suggest that Bill 26 reflects the recommendations of the Into the 21st Century report on how to change the Public Hospitals Act.

I'm not going to use the word "misleading" because it is unparliamentary, but I would say to the minister that your characterization of your changes to the Public Hospitals Act does not conform with the recommendations of Into the 21st Century, and so I'd ask for an analysis to be tabled with his committee to show what was recommended by Into the 21st Century and what is in Bill 26 and what is left out of Bill 26 that was recommended, and perhaps a rationale of why the minister did not take the recommendations that were made to him, since he was the one who brought up the report of Into the 21st Century. I think that is a fair question and I know that's going to take a little bit of work.

Not only does this minister take unto himself the power to close arbitrarily, without consultation, without appeal, to eliminate volunteer boards—he says in his comments that the power of investigators and inspectors are already in legislation, and he's right. But with this minister it's not only what he says, it's what he doesn't say. The existing powers of inspectors and supervisors are very clear as far as the process that must be followed upon the appointment of an investigator and then the appointment of a supervisor is concerned. The appointment of a supervisor wipes out voluntary boards. It allows the minister not only to micro-manage but to take over any hospital, and now with this it will be any health facility in this province. I would point out to the minister that his new provisions allow that with no process and no

appeal. That is brand-new and it goes far beyond what was included in any previous legislation.

We've already addressed the ability of the minister for the very first time to snoop into medical records. I won't dwell on that again.

The bill—and I believe this should be separate legislation. If you want to make changes to the drug plan, bring it in in separate legislation. To suggest that your proposals for—and you've used all kinds of words. I'm going to use the word "user fee" because I believe that when you said and when your Premier, Mike Harris, said, "No new user fees," people thought that meant no new user fees for drugs and I think they see that as a major betrayal. He referred to it as a question of fairness, and so the question that I'd put on the record is—first of all, it's a broken promise; there's no getting away from that—do you think it's fair that a single senior with an income of \$16,001 is treated exactly the same as a single senior with an income of \$100,000? Is that fair?

Do you think it's fair that a family on welfare with a bunch of kids who have chronic illness and disease, disabled persons, families with incomes of \$24,001, are treated exactly the same as families, seniors, with incomes of in excess of \$100,000? Is that fair to you, Jim Wilson? Is that fair, to Mike Harris? I don't think that's fair to the people of this province.

We prepared our briefing book, and I want to compliment our staff on the exceptional work they've done, and we've put the cover very clearly. It says, "Not One Cent." We heard the minister today refer to the fact that we have a debt here in this province. I want to point out to him that not one cent of the debt is going to be reduced during the mandate of the Harris government. This government said not one cent of health care is going to be touched, not one penny is going to be cut, and we have seen to date \$1.3 billion taken out of the health budget, taken from the hospitals. The minister shakes his head no, but that was the economic statement that was presented. As they presented their deficit number for this year, it included a reduction of \$1.3 billion from the expenditure on hospitals. That's the fact, that's the reality, and he can shake his head as much as he wants, but that's the truth—\$1.3 billion.

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He talks about \$225 million from the drugs as savings. It's not savings. That's additional revenue, revenue from those people whom they promised not to hurt: seniors, disabled, children. Those are the people who are going to be hurt with this \$225 million of user fees, additional revenues that are being collected.

Not only do I decry the way this bill was presented, but I've listened very carefully to the minister's statement. I can go through it in detail. He says on one hand, "We are not going to micro-manage," and on the other hand he is requiring hospitals to present human resource and manpower plans that are so fluid it would require such massive bureaucracy to study and address and then, because of his ability to interfere with those plans, I would suggest, that is in fact micro-management. So while he says on one hand that's not what he's doing, on the other hand it's exactly what he is doing. This bill

gives him the ability to micro-manage the system. He's already talked about possible amendments and one of my last questions to the minister will be: Will you table those amendments today? Will you give us the opportunity to see what you are considering as these hearings go forward? Because my fear is that those amendments will be tabled on the last day and we know that there'll be no opportunity for presenters who come forward to see what you are proposing in the way of amendments. So I would ask if those amendments would be tabled.

As I sum up—did you want to have any time?

Mr Curling: If I've got a minute.

Mrs Caplan: I'm going to leave just a minute for my colleagues. There's much here that the minister has said, but he has talked a lot about partnership and trust. He also talked about no bottomless well. Well, Minister, given the way you have treated your partners, I don't believe they will ever trust you, and I believe that Bill 26 not only poisons your relationship with them, it poisons the very well that you refer to. I would say to you that the only way you can reinstate partnership and reinstate trust is to withdraw Bill 26. Bring back sections of it if you wish in parts that can be scrutinized and digested and debated and discussed, with sufficient time and with that partnership where people will come forward and offer you their advice and their assistance and their participation. But if you insist on ramming this bill through by the end of January, as is your plan, then any hope of partnership, trust, will be gone, and that well will be poisoned for a long time to come.

The Chair: Thank you, Mrs Caplan. We've got a couple of minutes left. So, Mr Curling.

Mr Curling: Thank you, Mr Chairman. You know how anxious I am to participate in this democratic process, not only myself but my colleagues who were shut out and also the people of the province who were shut out in participating in this most important bill.

One of the things I want to put on record basically is for the minister to list to me—as he said first, his statement started as non-partisan, almost saying non-political, but he mentioned quite often about special interest groups. I keep wondering as your government keeps saying, "We will not respond to special interest groups." Could you list for me in the process who are special interest groups, who these people are, and tell me why you would not respond to special interest groups? Also, define to me if a doctor is not a special interest group or their organization is not a special interest group. Because one of the main and most important things about our process, this very democratic process, is to get all the people who are interested in democracy and their health to participate, the communication that we want, the consultation that we want in this kind of process. Tell us who are these special interest groups that you and your government so adamantly refuse to address and refuse to recognize.

My other comment, Mr Minister, through the Chair, is that although we do have public hearings now in this rather rushed period of time, at this time many, many people are calling my office and many of my colleagues' offices, hoping that if the opportunity does not allow them to make some presentation, that you and your government will make some recommendation to the committee that we have extended time in which to hear these people who are very, very anxious to participate in the omnibus bill that is going to have a very, very adverse effect on their lives, and hopefully that you'll go back to some of the comments that my colleagues have mentioned and some of your own soul-searching speeches that you gave at that time, that you realized that we must be sensitive to all those people in our society.

The Chair: Minister, you've got a minute for a quick answer.

Hon Mr Wilson: The member for Oriole, Mrs Caplan, asked about amendments. We have no interest in holding amendments back. I found that frustrating when I was in opposition actually. I couldn't understand why the government, when a good point was made and agreed upon, would wait till the last day to put in amendments and continue to get hammered day after day, witness after witness, when they were already intending on doing it.

The Ontario Hospital Association has asked us to sunset the Health Services Restructuring Commission powers. They're not intended to be ongoing powers; they're intended to get the job done. So we're signalling that today, and as soon as the legal wording is available for review by committee members, I will ask members of our caucus to table those. With respect to the privacy commissioner, meetings are ongoing and we will table those amendments.

The health care envelope has been sealed at \$17.4 billion. Not one cent's been taken out. The fact of the matter is Mr Eves's cuts in transfer payments to hospitals begin on April 1, 1996, so nothing's happened now.

I've already spent a large portion of those savings within the health care envelope when I announced paramedic services, when I announced dialysis services, when I announced symptom relief medication for ambulances; \$19 million for cardiac care surgery, which will dramatically reduce the waiting list in this province over the next two years—1,435 people will get more services; acquired brain injury, bringing patients back from the United States, something that we're very proud of. I've already spent a lot of that money.

Secondly, there are members in this room who are asking me for tens of millions of dollars, particularly the Windsor one I think about, in order to prime the pump to get the restructuring going on the capital side in Windsor. When you're going from four hospital buildings to two, tens of millions of dollars are needed on capital renovations to move into those buildings. Where do members think the money's coming from? It's coming out of the operating side and it's going to be fully reinvested in the system within a \$17.4-billion budget. That's our commitment and the commitment's firm.

The Chair: Thank you, Mr Minister. Okay, we now have a half hour for the third party. Ms Lankin.

Ms Frances Lankin (Beaches-Woodbine): Beware the minister who uses the word "I." I counted about 20 or 25 of them in that last little diatribe from the minister: "I have announced," "I have spent," "I have done this,"

"my ministry." From your opening statement, where you went from imploring us to treat this as a non-political issue to very, very quickly talking about previous governments with lack of vision and lack of intestinal fortitude, I've got to tell you I found that to be one of the most arrogant and basically dishonest portrayals of the past that I have heard from a minister of the crown. I was both surprised and disappointed. It doesn't set a good tone to begin this process of review of this legislation.

I, however, want to use my time I think to build on the comments that have been made by my colleague from the Liberal Party, another former Minister of Health—this is sort of an interesting scenario here—and spend most of my time asking questions, because I believe in a general sense her overview of the legislation and her read of the legislation is one with which I would agree.

I also, just in passing, must say I agree with her comments about the dramatic change that has happened in the minister's attitude since he was a critic to the point in time that he became the minister. I'm not sure what it is about sitting in that ministerial seat that does this to people, but I remember very well him, as critic, assuring us that he knew there was \$700 million worth of fraud in the health card system. Today he refers to studies quoting a number of \$65 million. I've heard that number somewhere before, but it's one that the minister, when critic, didn't believe.

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I remember him standing in his spot accusing our government of actions which were causing doctors to flee Ontario in large, dramatic numbers, and yet the background materials his ministry provides and that he has sent over to us with his signature on talks about relative stability over the past decade in terms of the number of doctors leaving and/or entering the province and entering practice.

This is a government that abhors quotas and yet within the legislation sets numerical quotas for doctors and where they can practise. This is a minister who in opposition, I remember, attacked me personally when we took one particular drug and moved it on to a special approvals process because of recommendations from the Drug Quality and Therapeutics Committee.

I remember him specifically raising the instance of one of his constituents and a doctor being very opposed to anything that would not allow doctors to require that no substitutions be made, even in this case where there was an approvals process. Yet now he suggests that individuals could pay. I would like to go back and speak with the minister's constituent and understand whether or not that particular person is in a position to pay for the drug. It's a very different position than you took before, and in many ways you are now singing a different tune.

I would like, as I go through my questions, to ask you if you could give us some detail about the changes that you are proposing, with the previous provisions of the act that's in place that you are repealing provided, and why the specific changes are being made. I am quite sure, given the length and complexity of the proposed amendments to various pieces of legislation contained in schedule F and beyond, that I won't get through all of

my questions, but I will take them in sequential order and see how far we get.

You spoke about the Health Services Restructuring Commission and have indicated today that you will be tabling an amendment which will put a sunset clause into the legislation with respect to that commission. I'm wondering why you've not set out any terms and conditions with respect to that commission in the legislation, why it will all be done by regulatory power. Why are there no goals, no responsibilities, no objectives set out in the legislation?

Hon Mr Wilson: I think the policy intent of the government has been made very clear. We didn't think up this idea. It's come from district health councils. There's a very specific reference to an authority or a commission in the Metropolitan Toronto District Health Council's recommendation to government. It is, I think, clear to a number of people that it's very difficult for the volunteers who write the district health council reports to then turn around and have to implement their own reports. We're bogged down in some areas of the province where communities—

Ms Lankin: My question was: Why have you not set out any goals or objectives or terms or conditions with respect to the Health Services Restructuring Commission in the legislation?

Hon Mr Wilson: We've done the very best we can to try to put some flesh on the bones with respect to the commission. The powers of the commission are clear as delegated and held accountable through the Minister of Health to Parliament, which was the best way in terms of legal advice that we could do this.

This is brand new. This will be the largest restructuring in North America. The Metropolitan Toronto District Health Council hospital restructuring report is the largest of its kind in North America, and I agree, we've learned some things from other provinces—

Ms Lankin: Okay—

Hon Mr Wilson: A human resources plan is required—

Ms Lankin: Mr Minister, I have a lot of questions and I don't want speeches on all of these, please.

Hon Mr Wilson: I recall you used to give me some pretty lengthy answers.

Ms Lankin: If we could try to get to the answers.

Specifically, the duties set out in subsection 8(7) say: "The commission shall perform any duties assigned to it by or under this or any other act," and you're telling us that in fact you think the duties and the powers are clear.

Let me ask you another question with respect to the section you're repealing. What is contained in there that will no longer be available to the public or through legislation in the new act?

Hon Mr Wilson: Sorry, Ms Lankin, I missed the first part. Somebody was interfering with me.

Ms Lankin: You're repealing section 8 of the Ministry of Health Act. What sections of that will no longer be in force? What are you doing away with through repealing that section?

Hon Mr Wilson: The specifics of the section—

Ms Lankin: Let me suggest to you that it is the provisions with respect to the district health councils. Does that jog your memory?

Hon Mr Wilson: In terms of district health councils, when Bill 173 was brought forward, we did argue that to codify something that's been in existence for 20 years, we didn't feel, was necessary, and therefore we've said to district health councils they have to be the ears, eyes and conscience of—

Ms Lankin: Will district health councils still have any legislative reference in section 8 of the Ministry of Health Act?

Hon Mr Wilson: Mr Chairman, in fairness, I'll need my section-by-section binder, and just ask that that be done.

In section 8, my recollection would be that we're repealing the Ontario Council of Health, which is being replaced, unlike Mrs Caplan said. She said, "You have the authority to set up all kinds of advisory committees." You're right, but we're repealing the Ontario Council of Health and putting in a hospital restructuring commission.

Ms Lankin: Okay. Subsection 8(8) of the existing act sets out district health councils' powers—sorry, I go back before that, under subsection 8(4), functions of district health council. Subsection 8(5) talks about capital and members of district health councils.

Hon Mr Wilson: I'm sorry, just repeat the first part.

Ms Lankin: What I'm trying to understand is, if you have repealed that section and you replaced references to the Ontario Health Council and district health councils with the Health Services Restructuring Commission, which you are now indicating you're going to sunset in four years, will there be any references left to district health councils or the roles and obligations of district health councils, and where will those be found?

Hon Mr Wilson: Yes, there will. Bill 173 still stands, and its provisions and changes. Secondly, I don't think the Ontario health council has met in a long time. It's a redundant council and we want to replace it with—

Ms Lankin: I'm talking about district health councils, which I specifically referred to.

Hon Mr Wilson: Yes, there are still references in terms of amendments that your government made. The bill still stands. We're not repealing Bill 173 or some of the changes you made, and the regulations have not been developed—I don't think they were developed when you left office—with respect to putting flesh on the bones of district health councils. I've said in the general policy statement, though, we'd like to roll their mandates back to being the ears, eyes and conscience of the local communities.

Ms Lankin: I think that it would be helpful if we could get a written response on that with respect to that section because on first reading it would indicate section 8 being repealed and nothing being referred to in the new section 8. All references to district health councils in this Ministry of Health Act in that section are gone.

If I may continue on, under Public Hospitals Act amendments, in terms of funding you've referred to the

language "in the public interest" as being fairly standard language and something that shouldn't concern us at all. Currently in the legislation, the requirements of the minister to fund are in accordance with regulations, and those regulations have been set out and they cover a number of different criteria. That has been completely removed. There is no longer reference to regulations in the section. It simply has three very, very broad and sweeping criteria allowing you to either make grants or loans, impose conditions on funding, or reduce, suspend or terminate funding. Why would you want to be in a position to make these kinds of decisions without any set of criteria that are available for public scrutiny, ie, set out in regulations under the act?

Hon Mr Wilson: There will be criteria in terms of policy and in terms of regulations, but the fact of the matter is, if you go back a few years—

Ms Lankin: I'm sorry, would you repeat that? You said there will be regulations under this section? There's no provision in the legislation.

Hon Mr Wilson: I'll have to ask legal counsel to clarify, but let me tell you the intent of the section. As you know, it's been very difficult to do any hospital restructuring. As I said in my remarks, 6,700 beds are closed but the bricks and mortar, empty hallways in some cases, still exist, and the only option the Minister of Health has under current legislation is to starve a hospital to death. I don't think that's a good way to go about restructuring the system. So we've developed these tools in consultation with our partners—

Ms Lankin: Mr Minister, again, you've gone off the question. I'm sorry, but I did hear your speech. I listened to you for an hour, and I would like to get at some of the specifics. This is the only chance I have to get at the specifics.

Hon Mr Wilson: Gail Czukar from the Ministry of Health legal branch will provide the specifics with respect to the regulatory authority that the member asks for. 1050

Ms Gail Czukar: You're speaking with respect to section 5 of the Public Hospitals Act, the funding section?

Ms Lankin: Yes.

Ms Czukar: In clause 32(1)(s), it speaks to regulations that can be made "governing the manner of determining the amounts of grants, loans and financial assistance...made to hospitals under section 5 or the amounts themselves...prescribing the time, manner, terms and conditions of payment," and so on. So there is provision for regulations to be made with respect to payments to hospitals.

Ms Lankin: The changes that are being made here in this section, Mr Minister, appear to provide you very broad grounds on which to make decisions with respect to funding of hospitals. As I understand it, in the past there has been a court ruling that indicated that the minister could not act for fiscal or budgetary reasons alone without regard to the effect on patient care in deciding to change funding levels, in this case to proceed to close and/or amalgamate hospitals.

The changes that you are proposing to the Legislature and to the legislation allow you to determine whether closure or amalgamation should occur, again in this broad phrase, if it is in the public interest, which would seem to allow you to take into account anything you deem to be relevant, including availability of financial resource. This is quite different than the court decision that has previously been in place.

Could I ask you why you're making those specific changes?

Hon Mr Wilson: "In the public interest" is a good question, because it's a test and limitation on the authority and how it may be exercised. I'll certainly ask Carole in a moment to explain because it is important that members note that.

With respect to the court case, you're right. I think in the past when ministers of Health tried to influence the behaviour of a particular hospital or indeed tried to convert that hospital to something other than a public hospital, the funding route was taken, and I don't think it was a very good way to go about things. Clearly the court said that because they provide medically necessary services onsite that starving a hospital to death is not the way to go.

I think the process that's contained in the bill with a commission is a fairer process, and again—

Ms Lankin: I'm sorry, Minister, that's not what the court decision said. Could I clarify my question?

Hon Mr Wilson: It's clear, though, that nothing will done unilaterally, in that the district health councils make these recommendations. Again, I would ask you, Ms Lankin, you had 30 studies coming in in the next few weeks. What am I supposed to do with them? Just sit on them? Five million dollars alone for the Metro Toronto study, no process in place, you didn't move on the legislation at all to lay some groundwork on what to do with these hospitals.

Did you intend that hospitals would simply go back to the old game of just fighting with the government back and forth for a number of years until one side blinks? That's just not the way it's going to be. We've been told by the OHA that restructuring has to occur and we're trying to facilitate it.

Ms Lankin: I think when on shaky ground politicians, particularly ministers, move to the offence. Quite frankly, you haven't answered any of the specific technical questions, and that worries me.

I'm going to come back to some of the comments that Ms Caplan made with respect to your understanding of the legislation and the powers that you're taking on to yourself.

There have been provisions in place in legislation and processes in place with respect to how decisions about funding were made. There have been protections, in both the legislation of the past and in court interpretations of that, that those decisions about funding and about closures and about amalgamations, while the right in the minister to make, must be made keeping issues such as patient care in the forefront, and not made solely on the basis of fiscal decisions.

You have changed the language and given yourself complete protection on liability issues in a way that has not existed in legislation before. You said in your presentation in a number of areas that you're merely extending these protections of liability to the minister.

I can point, as I go through my questions, to points in the legislation where before the crown was liable. For example, under some of these decisions with respect to inspectors and supervisors coming in under the Public Hospitals Act, you have taken additional protection to insulate the minister and cabinet from legal liability. Prior to that, crown was liable for certain of those actions. The inspectors weren't but the crown was.

Why have you taken that next step? What is it that you're afraid of in terms of liability? What are you trying to protect yourself against?

Hon Mr Wilson: With respect to the latter point, crown liability is maintained in sub (2), there, but you've taken a very narrow definition of it. It's only fair, I think, to have legal counsel respond, because some of the comments that the honourable member has put on the record simply wouldn't withstand the legal scrutiny. I'd like, in fairness, to ask Carole McKeogh, from the legal branch of the ministry, to respond specifically to your former comments, where you say we're taking out quality provisions and that. Nothing could be further from the truth.

Ms Lankin: Taking out what? Sorry?

Hon Mr Wilson: You mentioned "maintenance of quality and quality assurance."

Ms Lankin: No, I never used those words.

Hon Mr Wilson: I thought you said "quality" there.

Ms Lankin: No.

Hon Mr Wilson: I'm sorry. Do you want to respond, Carole?

Ms Carole McKeogh: Sure. I think that the reference to the former case was the Doctors Hospital case in 1976, and that was a court decision where the government had moved to revoke the approval of Doctors Hospital under section 4 of the Public Hospitals Act for fiscal reasons.

They wanted to revoke its approval as a hospital for fiscal reasons, and the court held that in regard to the revocation of an approval of a public hospital under the current act as it now stands, there was no action that could be taken for fiscal reasons. The act was purely regulatory in nature. I don't have the case in front of me at this exact moment but, as I recall, the words were "regulatory in nature," and that fiscal issues did not arise under the Public Hospitals Act.

The amendments to the act are intended to broaden the grounds upon which action can be taken, with the public interest being defined in subsection 9.1(1) to include a number of issues, including fiscal issues. But the patient care issues are also maintained in the 9.1 text.

Ms Lankin: Mr Minister, the provisions in the Public Hospitals Act expand the powers given to inspectors and to supervisors, and there are a couple of points of this that are disturbing to me, one in general, but again it's not spelled out in the legislation and it is very much of a discussion of the minister and the direction of the minister.

ter. Particularly, though, when appointing a supervisor, in the previous legislation there was a requirement for the tabling of an investigator's report and there were criteria in terms of under what conditions etc. Why is that being done away with?

Hon Mr Wilson: Much of that is preserved in this legislation.

Ms Lankin: Not the specific points that I've just raised.

Hon Mr Wilson: I'll ask Carole to respond to that.

Ms McKeogh: Section 8 of the current legislation deals with investigators and section 9 deals with supervisors. The section 8 provisions remain in so far as investigators do table a report. However, the section 9 provision, the link between the report and the supervisors, is removed. It's no longer a necessary precondition.

Ms Lankin: My question was that exactly, and it was why? Your answer in its first part was wrong. Perhaps you could answer the why.

Ms Marilyn Churley (Riverdale): The minister doesn't know his own bill.

Hon Mr Wilson: It would depend on your interpretation. We admit up front—I said in my remarks that we're expediting some of these processes. There isn't the precondition for the report to be submitted prior so that a supervisor can go in and do what might have to be done again. This is very, very rarely used. A supervisor hasn't been used—I think maybe twice in the last 10 years—but we're modernizing the act.

The reason I asked legal counsel is I get the suspicion that the honourable member, no matter what I say, just doesn't believe me. If I say certain provisions are—

Ms Lankin: Well, you've got a point there.

Hon Mr Wilson: —preserved in the act, she says I'm wrong.

Ms Churley: You don't know it. Hon Mr Wilson: I can't win.

Ms Lankin: With respect to the appointment of the supervisors and the responsibility of supervisors, it is my understanding that, before, the act provided that supervisors could play an advisory role essentially to the board of the hospital. Now it appears that they can go further than they could before and can actually take over the administration or running of the hospital in a more direct hands-on way.

Given that this section has been so rarely used, as you said, there have only been a couple of supervisors appointed, why did you feel it was necessary to provide supervisors with that kind of power, which essentially would undermine the role of the voluntary boards?

Hon Mr Wilson: Again, those broad powers were contained in the old section of the act in terms of supervisors could direct the board and could do things in joint discussion with the board, and that's maintained in this act.

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Ms Lankin: Are you suggesting that the act doesn't take it further in terms of the powers of the supervisor to

actually assume the duties and responsibilities of the board?

Hon Mr Wilson: Yes, it does take it slightly further. **Ms Lankin:** Why?

Hon Mr Wilson: Again, in cases where it may be required. You know we would like to be able to do things as expeditiously as possible. It's a very rare provision, and the need would only arise under extreme circumstances. We're not contemplating having supervisors running around to every hospital to upset their voluntary governance if this is the case. There are safeguards in there which would trigger a supervisor being called onto the scene.

Ms Lankin: Here's my problem with that— Hon Mr Wilson: For example, if a hospital—

Ms Lankin: Mr Minister, I've only got a couple of minutes left. I've heard your answer.

Hon Mr Wilson: Could I answer? If a hospital refused to provide certain services because of financial constraints or otherwise, then a supervisor would come in and have to direct. The rare case would be hospitals simply handing you over the keys, saying, "We can't live within this fiscal environment," or something, and a supervisor would go in. But we don't expect that. That power's been there in the past. It has been used very, very rarely, and this doesn't alter it—

Ms Lankin: Mr Chair-

The Chair: Thank you, Mr Minister.

Hon Mr Wilson: —in my opinion significantly.

Ms Lankin: Here's my problem with what you've just told us. You've agreed that powers of investigators and supervisors have been expanded. You have told us that the use of supervisors is so rare, there have only been two examples in the last 10 years, in your words. You think and contemplate that it would be so extremely rare that a supervisor would ever do this, yet you've contemplated the exact circumstance in which you're going to have a supervisor take over the duties and the responsibilities of the board as opposed to the former role which was simply advisory.

If you go on, you can give absolute direction, as the minister, to that supervisor with respect to the running of the hospital. In fact you can insist that the board carry out any of the directions of the supervisor, which could be directions of yours, which would include overriding provisions of other legislation, overriding the letters patent and the bylaws of the hospital and overriding other contractual obligations.

For example, I don't know, but we'll ask some of the health care employee organizations that come forward here whether or not they see this as the possibility in the future of you directing a hospital board, under supervision or through direction, to override provisions of contracts and collective agreements.

These are very broad powers. It is not at all easy to understand why you would provide those powers to yourself, as minister, being able to direct a supervisor, when you said it is such a rare circumstance that you would ever get there.

Continuing, in the Public Hospitals Act there are powers you give yourself to insist that when physician resource plans are submitted by hospitals, you can impose amendments to the plan yourself unilaterally.

You've extended the provision of immunity from liability in all sorts of situations. You've taken away rights of appeal. Even in circumstances other than closure, when doctors and physicians are revoked privileges, you've taken away rights to appeal to the hospital and courts, and you give cabinet the authority to set out in regulation if you will allow them any other form of appeal, but not necessarily will you allow them appeal.

There are many changes that go on in areas of the Independent Health Facilities Act that you've set out in terms of drug listing, and I've already raised some of the concerns I have about your obvious change in position from when you were critic to when you were minister.

Let me ask you, with respect to the process for adding lists to what is covered under the plan, you now have the ability to decide whether or not you think it is advisable, in the public interest, to add a drug. What would you be considering? Would that include the cost of the drug?

Hon Mr Wilson: We'll be still taking the advice of the DQTC with respect to additions to the ODB.

Mrs Caplan: But you still have that power to decide unilaterally.

The Chair: Mrs Caplan, this is a-

Mrs Caplan: And he didn't answer the question.

Hon Mr Wilson: Mrs Caplan, you have that power now, I suppose. When the DQTC's recommendations go to cabinet, they can say nay or yea.

Ms Lankin: Then why are you making these amendments?

Hon Mr Wilson: The amendments clarify the statutory right to do that, because we've had court cases, as you know.

Ms Lankin: And lost a court case. I remember very well that court case.

Hon Mr Wilson: We lost a court case. We don't intend to lose any more.

Ms Lankin: It's very interesting that you would even include within the legislation a reversal of court cases that the crown had lost. I find it extraordinary in terms of the broad, sweeping approach you would take.

The Chair: You're down to your last two minutes.

Ms Lankin: Thank you. I also understand that you would now be in a position to impose clinical criteria. In your review of whether or not particular pharmacists and/or drugs would be reimbursed for, it gives you the power to overrule the decision of a doctor or pharmacist as to what is appropriate medication by refusing to pay and requiring the patient to bear the full difference in cost. Why do you think that you, as Minister of Health, should be in a position to override professional medical decision-making in dispensing?

Hon Mr Wilson: The member knows very well that the Minister of Health, as a layperson, doesn't make these decisions or recommendations; that the Drug Quality and Therapeutics Committee, which consists of microbiologists and pharmacists and other experts, makes recommendations to the medical community about what's appropriate.

I agree, Ms Lankin, that clearly, if somebody, as in your previous example, insists on getting the name brand of a particular drug when there is already a generic listed on the ODB—

Ms Lankin: That's not the specifics I was referring to.

Hon Mr Wilson: But I want to go back to your earlier accusation.

Ms Lankin: Mr Chair, I have one more question I want to get in.

Hon Mr Wilson: Go ahead, Ms Lankin.

Ms Lankin: As you can see, there are many parts of the bill that I have not been able to get to in terms of asking questions at this point in time and getting the specifics. I will be tabling questions in a number of these areas and hope to receive written response on them.

The last area I want to ask you about is hospital user fees and their relationship to the Health Care Accessibility Act. There have been questions asked of you and asked of the Premier, and we have had different answers with respect to what it is you are trying to achieve by allowing hospitals to charge user fees for any hospital-based insured services. I would be interested in having a complete explanation of this in writing, but now just verbally, particularly when you put this in conjunction with the Minister of Finance's statements with respect to needing flexibility under the Canada Health Act.

There are provisions in your legislation which take away the requirement in certain facilities for you to fund medically necessary services and allow cabinet to determine what medical services will be funded, taking away that language of "medically necessary."

The Chair: Ms Lankin, it's a good thing you asked for it in writing, because you've run out of time for a verbal response. The time is up for this particular part of the exchange.

Hon Mr Wilson: Can I take one minute to respond to that latter one?

Mrs Caplan: Can we have unanimous consent to allow the minister to answer?

The Chair: Thanks very much, Mr Minister.

Hon Mr Wilson: Can I take one minute—

The Chair: No, we've got an awful lot of work to do today and we're going to have to stick very tightly to our agenda. Thank you very much, Mr Minister, for your attendance here this morning.

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EMPLOYER COMMITTEE ON HEALTH CARE IN ONTARIO

The Chair: The first presenter is from the Employer Committee on Health Care in Ontario, Carmine Domanico. You have a half-hour to use as you see fit. Any time you leave for questions at the end will be divided evenly among the three parties, beginning with the Liberal Party.

Mr Carmine Domanico: Thank you, Mr Chair. I have some prepared statements that we, as an employer

committee, have put together, and I'll read from the notes. At this time we don't have time to provide you with a copy of the statement, but we will provide a copy to you later in the week.

The Employer Committee on Health Care is a group of more than 30 of Ontario's largest employers, who are concerned about the effectiveness of our health care system. We believe that as employers, we can and are making an important contribution to maintaining a healthy and productive workforce. We are here to comment on the issues raised in the omnibus bill recently introduced by your government, on November 29, both from an employer and employee perspective.

First, we would like to express our support to the government for its willingness to address some of the difficult issues facing the delivery and funding of health care in this province, as outlined in the 1995 fiscal and economic statement delivered earlier this year.

We appreciate the consultative process the ministry has taken in drafting the amendments and understand that the information provided by ECHCO concerning the impact on employer-sponsored programs influenced the development of the final plan design.

We support many of the issues documented in the ECHCO paper distributed in July 1995, which was called "A Perspective on Health Care," of which we will also provide a copy along with our submission. We provided the minister with a copy of the paper earlier on when it was released.

Some of the areas we support are as follows:

Support to the Health Professions Regulatory Advisory Council in the role of nurse practitioners as part of the mainstream of health care delivery. ECHCO believes that nurse practitioners will complement, not replace, the services provided by the family physician and other primary health care practitioners, especially in the rural and northern areas of Ontario, by adding value and improving upon the overall quality and cost-effectiveness of the system by providing increased accessibility, promoting speedier rehabilitation and increased consumer health education.

The use of smart cards and the collection of data containing health care information about individual patients will result, we believe, in less duplication of diagnostic services, speedier and safer treatment and informationsharing to individuals regarding treatments and outcomes at a higher level. We believe that enhanced technology could help promote the sharing of best practices, coordination of benefits, as well as coordination of health education, to increase the effectiveness and efficiencies of the health care system.

We support previous proposals made related to regionalizing and restructuring of hospitals so that services offered by hospitals are streamlined, resulting in regional specialization, closing unproductive capacity, sharing patient information, combining purchasing power and sharing information technology.

While we support the proposed restructuring within hospitals, we understand that the reduction in transfer payments beginning in 1996 will have a significant impact on the way hospitals will generate revenue.

You have stated in the bill that there is potential to achieve further efficiencies by using hospital resources more efficiently. ECHCO acknowledges the need for other sources of revenue, and it is our goal to work with hospitals who have the ability and desire to lead their organization to work with the private sector to help generate those necessary revenues.

ECHCO initiated and is pursuing such opportunities with various hospitals and hospital groups. ECHCO is currently meeting with various hospitals and their groups to create a hospital- employer model to develop a way to achieve additional revenues for hospitals; in exchange, employers can use the non-physician resources available within the hospital structure, such as rehabilitation, physiotherapy, health education and blood pressure clinics.

The issues in the bill in respect of physician services raised the potential for suppliers, such as physicians in hospitals, to try to make up the revenue shortfall from the public marketplace, such as government-provided services in the private marketplace, such as employers and individuals. This brings up two points.

There needs to be a framework for determining what is medically necessary and therefore, by definition, what isn't medically necessary, so that what is determined as necessary for the health and wellbeing of individuals will continue to be covered by government plans.

The government, in recognizing that it is doing this, and physicians in particular, will almost certainly allow physicians to bill third parties for non-medically necessary services, such as pre-employment physicals and other work-related issues. Usually, when employers receive these bills they are far higher than what the government would pay for these services. In fact, when physicians bill employers for medicals, they charge far more than they would charge OHIP in general. A very clear example of this is in the drug benefits costs.

Further, anything that prohibits competition, such as advertising fees, for the ability of organizing the setup of preferred provider networks etc to ensure that the private marketplace can deal competitively for delisted services—in other words, the private marketplace can go out and purchase these services at the quality and price they want rather than knowing what they are going to pay, because the physicians, for example, cannot advertise their fees.

I'm going to go into changes in regard to the ODB program in more detail and ECHCO's view of the changes.

The implementation of the \$100-per-person annual deductible plus a prescription deductible and the amount of the dispensing fee, a fee which cannot exceed \$6.11, are effective cost-containment features. They cut costs for the government for the obvious reasons of cost-sharing, but they also cut costs by reducing overuse and abuse, both of which need to be removed from the system. This reduction in utilization should not negatively affect health, as the per-prescription, out-of-pocket expenses are affordable by most, and for those who cannot afford it there is a safety net for the deductible being reduced to a \$2 copayment per prescription filled.

Mechanisms are needed to ensure that there is no waiving of these deductibles, otherwise the impact on the utilization will be lost. The pharmacist's operating licence would be dependent on adhering to these additional mechanisms.

Other non-ODB drug requirements of senior citizens are paid by the senior. In this area, many have employer drug plans to rely on. In the past few years, many plans have implemented cost-containment measures that accomplish objectives similar to those of the Ministry of Health, that is, bringing the senior into the decision process by participation financially in each drug purchase, therefore cost-sharing. Many plans include coinsurance such as a 75-25 wherein the retiree pays 25% of each prescription filled, ingredient and dispensing fees combined.

Trillium program: The new \$2 copyament within the Trillium drug program is a positive measure for the same reasons I've stated previously; likewise for the use of deductibles and copayments for those newly eligible, those with net incomes under \$20,000.

BAP, best available price, at 10% markup limited for drugs listed on the ODB formulary for anyone: The system, if it did not exist today, likely would not be implemented. However, its presence brings stability and fairness to the thousands of plan sponsors, most of whom are small and so not able to afford negotiating in pricing, and even to those with a vested interest in removing BAP structures; that is, the brand-name drug manufacturers, the generic drug manufacturers, the pharmacists and the online adjudication service companies. There would be no incremental gain to plan sponsors nor consumers. In fact, they would be losers.

The bill would include the following changes for drugs listed on the ODB formulary:

Remove the current manufacturers' pricing mechanisms on brand-name patented drugs, mostly prescription-required drugs, wherein all buyers pay the same price set between the manufacturer's federal board or the ODB;

Remove the current pricing mechanisms—best available price—on generic drugs where they are often multiple versions of the same drug;

Remove the limit on the markup allowed for the pharmacists, currently 10%. This is in addition to the dispensing fee. There's already exposure on drugs not listed on the ODB formulary, but the vast majority of drug expenditures are on drugs on the ODB formulary.

The changes will leave plan sponsors with no choice but to implement online adjudication with all its upfront and ongoing costs, and consumers will be confused and feel helpless as a result of a complex set of rules. The solution is apparent.

Do not change the ODB, in so far as it already has an acceptable mechanism to set the price for the ODB-listed drug products.

Do not change the Prescription Drug Cost Regulation Act so it no longer restricts what the pharmacist can charge non-ODB consumers for the drugs. What has existed works well. What has existed will still be in place for ODB anyway. Also, to require pharmacists to post their dispensing fees while allowing full discretion on the markup would be inconsistent and misleading.

Finally, to close, the reason the employers' committee was formed, we had three themes that came out of our paper in July. They were: information and education; streamlining and coordinating services; illness prevention and promotion of good health. We feel that in the bill a lot of these areas were touched upon, and we thank the ministry for taking these points into consideration.

What we mean by that is meaningful reform will depend upon reliable information about costs from related health outcomes. We believe that incentives in the system can improve dramatically when payers, patients, providers and referring doctors can base decisions on a comparison of relevant outcome measures and their prices.

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There's streamlining and coordinating of services. Studies indicate significant savings can potentially be achieved through the streamlining and coordinating of hospital services and ensuring more cost-effective modes of delivery without adversely affecting the health of the population.

Finally, under illness prevention and promotion of good health, employers and their employer groups offer opportunities to test and measure health care options, reforms or models before rolling them out on a province-wide basis. There are many employer best practices such as interim work centres and retraining of disabled employees which can also serve as public health care models.

That ends my remarks.

The Chair: Thank you, Mr Domanico. We have about five or six minutes per party, and we'll start with the official opposition. Mr Bartolucci.

Mr Rick Bartolucci (Sudbury): Mr Domanico, good morning. Were you consulted prior to the legislation being introduced?

Mr Domanico: In regard to the ODB?

Mr Bartolucci: Yes.

Mr Domanico: Yes, we had surveyed our members at the request of the ministry to see what the impact of the changes would be. So we had provided some input to the ministry as to the effect of what would happen as regard to the ODB.

Mr Bartolucci: You offered some suggestions of what is good and you offered some suggestions as to what is not so good. When you gave your suggestions with regard to what your concerns were, how were they addressed?

Mr Domanico: In what form were they addressed?

Mr Bartolucci: Yes.

Mr Domanico: We had face-to-face meetings mostly. What we had tried to bring forth from our perspective was, "Here are the changes that you're proposing to implement and here's what the impact would be on a cost perspective to us and, as a result, any cost shift to the employee as well." So the recommendations that we made we felt were taken into consideration and we feel good about that exchange of information and being consulted upon, because traditionally we have not been consulted upon; we've been sort of neglected in the

process and therefore have had to absorb a lot of the cost shifts and react to changes versus proactively getting ready for a change.

Mr Bartolucci: What are you still really concerned about?

Mr Domanico: We see, from the point of view of the whole budgetary process, that there's going to be less and less funds available to the health care system in Ontario. Therefore, as a result of that, we don't know what actions the government may be taking and our biggest concern is that we want to be a player up front when those changes are being considered, to be able to give our input into those changes. We want to be available as a consultative group, as an employer committee, to be able to advise versus not being able to advise and then having to react to those changes. That's our biggest concern.

Mr Bartolucci: So am I to understand then you're satisfied with everything in Bill 26?

Mr Domanico: We're satisfied with the direction that Bill 26 is taking. I can't speak to any more than that on specific details. I'm not an expert in each area and I don't profess to be.

Mr Bartolucci: With regard to health care though, are you satisfied with every aspect of Bill 26?

Mr Domanico: Well, we're not totally happy with regard to the ODB, with the dispensing fee transfer and the deductible, because we will end up absorbing a lot of that cost. So, no, we're not satisfied with that. But we understand that at a consideration of making us first payer in the system, it's the better of two evils.

Mr Bartolucci: What you're telling us then is that the government wasn't fully receptive to any recommendations that you might have made.

Mr Domanico: The recommendations they were originally pursuing would have been a lot more detrimental to us, so they were receptive to that. Fully receptive is to not pass on any costs, and that did not occur.

Mr Bartolucci: Yes, all right. Thank you.

The Chair: The official opposition has another minute-and-a-half or so, if you want to use it up.

Mrs Caplan: Yes, I do. Have you looked at the bill, at the extensive powers that the minister takes unto himself, not only in the area of drugs but when it refers to hospitals and all providers and so forth? Have you had a chance to review those powers?

Mr Domanico: Not to any great detail. We understand the scope of some of those powers and understand that the government is trying to gain some control over how revenues will be spent as a result, to have more control over the system. As an employer I really don't have any concern with respect to that.

Mrs Caplan: I guess the last question that I would have for you is there's a lot of information contained in access to information around drug use and so on and so forth. The freedom of information commissioner has expressed real concerns over the powers of the minister to disclose information, which go far beyond anything in the past. Do you share those concerns, one, and would you like to see those provisions taken out of this legisla-

tion and put into a separate act, as suggested by the privacy commissioner, so that included in that additional act could also be additional safeguards to privacy?

Mr Domanico: With regard to the whole issue of privacy and confidentiality, we see that as a major concern. What we as employers want to focus on is that we believe that shared information could be effectively done in a confidential manner. We do it today with all our banking and somehow that seems okay, but when it comes to a doctor treating a patient, we believe that that doctor should have available to them the most information about that patient's care, whether it's electronically—electronically would be the preferred manner so that you get it on time and they can prescribe the required treatment to get the best outcome.

The Chair: Thank you very much, Mr Domanico. Thank you, Mrs Caplan. The third party.

Ms Lankin: Mr Domanico, you've set out in the opening comments a number of key things that you were concerned about. I think you suggested that there had been a paper produced. I'm not sure—

Mr Domanico: Yes, we had a paper that was published in July of this year.

Ms Lankin: I haven't seen that. So that's something that perhaps, along with your statement—

Mr Domanico: Yes, we'll send that along.

Ms Lankin: That would be helpful; thank you.

You indicated that many of your ideas from that paper had affected the final design and you listed some of them. You referred to nurse practitioners, smart cards, a framework for what is medically necessary as examples. I fail to see where those issues are directly addressed in the legislation that is before us today.

Mr Domanico: On the medically necessary one, we feel there's still some more work to be done in that area of defining what is medically necessary. We encourage the government to continue to work in that area. We don't believe it's fully done in this bill, no.

Ms Lankin: It's not addressed at all.

Mr Domanico: It's not addressed in the bill at all. It needs to be pursued because we believe it's a key in determining what the assistance will pay for and what the patients will pay for.

Ms Lankin: And smart cards, how is that accomplished by this bill?

Mr Domanico: Back to the point that I made to Ms Caplan, we believe that eventually you as a patient will carry all the information about yourself with you so that no matter which physician you go to see will have access to that data. That's the use of smart cards—

Ms Lankin: That's something that in fact government has been looking at and has been evaluating in a pilot project already. I again don't see this legislation providing smart card technology in Ontario. Is there something in particular that you like about this legislation for that project?

Mr Domanico: We believe that the bill encourages the use of new technologies. In our discussions with the ministry, one of the reasons for not pursuing with the OHIP card that was working under your government was that this card did not contain as much of the information or wasn't integrated as it should have been with other systems. So we're still encouraging that this be pursued.

Ms Lankin: And nurse practitioners?

Mr Domanico: Yes.

Ms Lankin: Again, this is something that many people support. I remember, when I was minister, it was an area that we looked at, the re-establishment of the nurse practitioners education program which had been cancelled and there was the question of fiscal planning to be able to bring that back. What is it in this legislation you like with respect to nurse practitioners?

Mr Domanico: Specific to nurse practitioners? I have to tell you a little about our structure. We are structured in our committee based on about five subcommittees, and I've just received all the information from the various subcommittees. I could not particularly answer such—

Ms Lankin: I think, Mr Domanico, that a number of these areas that you've listed as key goals for your organization are very important in terms of health care reform, and they're ones that I would agree with. I do suggest to you, however, if you take a look at Bill 26 that they're not contained within this bill and that's not what this bill is about.

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The one area that you did address, though, that you favour and that is contained in Bill 26 was the issue of copayments on the Ontario drug benefit plan, which I understand would affect many of the employers with respect to the benefit plans. I guess that was one of the issues that you were interested in.

I was interested in your comments that this would stop abuse in overmedication. I find that interesting, given that all of the studies that have been done over the years and ones that I have reviewed personally and the ministry has reviewed indicate in fact that the problem with the costs in the drug plan is not as a result of people abusing the system; it's a result of doctors overprescribing and that in fact over the last number of years there hasn't been an increase in the per-patient utilization and the majority of the cost increase in the system has come from the increase in drug prices itself.

So I'm wondering where you got this perception from that copayments are going to stop overmedication. Wouldn't prescribing guidelines be a more effective way of doing that?

Mr Domanico: We agree that prescribing guidelines should be pursued as well. I understand the studies that you're speaking of with respect to the co-sharing of costs. However, we see in our plans as well that when employers have introduced drug cards where there is no co-sharing, actually there have been utilization increases in the plans. We believe that having some co-share mechanism within the system assists the individual in their decision-making process, that there is a cost for them as well as for the employer, versus that it is a nocost benefit.

Mr Tony Clement (Brampton South): Thank you, Mr Domanico, for being here today to be our inaugural

speaker from the public. There's a couple of things that I wanted you to elaborate on from your remarks. Speaking first about something that occurred just a few minutes ago, Mr Bartolucci was pressing you on what aspects of Bill 26 you were less enamoured with, rather than more enamoured with. You said right at the end of that series of questions that the one thing that you felt could be a problem for employers was that in fact with the copayments being instituted, it would be the employers who would be absorbing the cost of the deductible or the dispensary fee, rather than the employees who would incurring that cost. You saw that obviously, as an employer or an association representing employers, as problematic. Could you just elaborate on that and how you see that as a problem?

Mr Domanico: Most of our plan designs for our pensioners are written in such a manner—and, again, we're reviewing these as a result of, over recent years, changes in transfer of costs to the employers—that in some cases whatever the government plans don't pick up, we'll pick up. This was said at an era or time when we didn't have a lot of these transfers of costs occurring. Therefore, we had an obligation to our pensioners, to our soon-to-be pensioners and employees who are working with us, who understand that that is what the benefit will be when they retire. Therefore, we have a dilemma. We can't just unilaterally say, "Okay, we're not going to cover that any more because of what has happened over here." Therefore, we will end up, in a lot of cases, picking up some of those costs that are transferred to us. We're reviewing our plans, but those will all be more on a prospective basis than what we can do about current retirees and soon-to-be retirees. We have an obligation with them and we'll continue to maintain that obligation.

Mr Clement: I see. I wanted to turn for my second question just to the issue of the confidentiality provisions, which have certainly generated a lot of heat and not a lot of light yet, but hopefully that'll change in the next few weeks. For you, that intersected with the smart card technology which you discussed with Ms Lankin just a bit. But could you just elaborate a bit? I know in your original brief in July you talked a bit about how smart card technology could both be a confidentiality tool but could also be a tool to root out some of the inefficiencies in the system, some fraud in the system and so on. Could you just elaborate a bit on that?

Mr Domanico: In one method, if you had a system that was well integrated across the province or across the country for that matter, where an individual may be going for double doctoring, which may include double prescription, the whole gamut out there, there is no way for a doctor or physician or any health care provider today to be able to check that what they're providing or recommending for the individual has not already been recommended or is detrimental to some other care that the individual is getting. They may go somewhere for care for an asthma problem and somewhere else for care for a heart problem, and the recommendations, unless those doctors and the patient shares that information willingly, they may be giving treatment that may be detrimental to the individual's health.

We believe that use of smart cards and information sharing will provide the physician or the professional the required information to be able to treat the individual properly.

You see that we have that in some of our systems today where pharmacists are online now adjudicating claims, and they can see that if a certain prescription is being given and they know that the individual's currently under a different prescription, that can in fact be detrimental to the individual. So that's an example of where we believe smart card technology would be helpful, and that's confidential.

The Chair: No further questions, thank you very much. We appreciate your attendance here this morning and being part of our process.

Mr Domanico: Thank you very much and we'll forward it to you by the end of the week, our paper and copies of our position paper as well.

ASSOCIATION OF ONTARIO HEALTH CENTRES

The Chair: The next presenter is the Association of Ontario Health Centres, Sonny Arrojado. Did I come close on that? Whatever time you allow for questions—you can have 30 minutes—will be split evenly among the parties. The questioning will begin with the New Democratic Party. The floor is yours.

Ms Sonny Arrojado: Good morning, ladies and gentlemen. We thank the government and this committee for providing us with the opportunity to present our comments and recommendations in respect of Bill 26, the Savings and Restructuring Act.

The Association of Ontario Health Centres is the provincial organization of community health centres and some health service organizations in Ontario. Our mission is to represent member centres in the promotion of healthy public policy, healthy individuals and communities through the creation and continuing development of health centres which embody the principles of accessible quality primary care, health promotion and active community ownership and participation.

Given this mission, we support the reform of Ontario's health care system. Although we primarily view fiscal constraint as an inappropriate reason for reforming the health care system, we acknowledge that it has a practical role in pushing the health care reform agenda.

We also acknowledge that Ontario's Progressive Conservative government was elected with a mandate, among others, of fiscal restraint and management. Our concern for the inevitable effects of funding cuts to the health budget was lessened by the Progressive Conservative Party goals and commitment for the health care system as identified in the document, the Mike Harris Forum on Bringing Common Sense to Health Care, December 2, 1994.

We generally supported all of the goals identified in the document. In particular, we believed that the PC goals specific to management and accountability, health care bill of rights, individual responsibility and fostering community involvement, combined with the party's political will, could provide a functional framework for a truly reformed health care system. As noted, these goals are: On management and accountability, improving management and accountability at all levels of the health care system to make it more responsive and accountable to the people who provide care and the people who receive it; on the health care bill of rights, to empower the consumers of the health care system with the rights to proper care and to participation in decisions regarding that care; on individual responsibility, to promote individual responsibility allowing Ontarians to make informed choices about healthier lifestyle options and informed decisions about their health; on fostering community involvement, to give communities more say in establishing their local health care priorities as well as how and where they want health care services to be provided.

Because of these goals, we have committed to working with this government in achieving these goals as strategies to achieving health care reform in Ontario.

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Given our understanding of the government's stated intent, we are alarmed at the common themes throughout the proposed legislative amendments contained in Bill 26. We acknowledge that Bill 26 is intended to achieve fiscal savings. We also recognize the pressures on this government to undertake measures which result in this outcome.

As noted in the title of Bill 26, the overall thrust of the proposed amendments is to grant government with the legislative powers and tools to meet its fiscal objectives. However, certain provisions in Bill 26 cause us to be greatly concerned that in the pursuit of fiscal savings, government would end up enacting legislation that will effectively nullify the Progressive Conservative Party's goals on achieving health care reform. We would like to raise those concerns with the committee this morning.

The volume of Bill 26, combined with the extremely short notice we had, makes it virtually impossible for us to review Bill 26 in its entirety. Therefore, we have limited our review, our commentary and recommendations to those sections in the bill pertaining to health services.

In this respect, we found several portions of Bill 26 in direct conflict with most of the PC Party health care goals noted in the previously noted document. We must note, however, our opinion that certain provisions of Bill 26 would provide the necessary levers, legislatively, to move the health reform agenda. We support the government's proposed amendments specific to these particular provisions. Unfortunately, logistical limitations hinder us from commenting on these areas in this presentation. We would be pleased to discuss those areas directly with the Minister of Health at his convenience.

Provisions in part IV of Bill 26, schedule F, open up the potential for a range of facilities, such as community health centres, to be deemed independent health facilities within the meaning of the act. We hope the Health minister will provide us with the opportunity to be consulted if such a possibility is being contemplated.

Specific provisions in Bill 26 cause us great concern. We have attached to our presentation an appendix which is a more detailed commentary on areas that are of immediate concern to us.

We are generally concerned with the provisions of Bill 26 which grant unqualified sweeping powers to the Minister of Health. Specifically, we believe existing legislation already provides broad powers. There's a wide range of these authorities and powers contained in the Ministry of Health Act, in particular the extensive provisions of section 6 of the act. Without the clear rationale for the additional extraordinary legislative powers, we are gravely concerned with the potentially dangerous consequences of having one individual, albeit the Health minister, having unrestricted extraordinary powers over health matters affecting all Ontarians.

We acknowledge that the current Health minister has already publicly indicated that he will not likely use all the powers that are referred to in Bill 26. With due respect to the Health minister, we are gravely concerned that these sweeping powers be enshrined in law without a corresponding set of checks and balances as part of these amendments.

We further acknowledge that in certain instances the Health minister may need specific extraordinary powers to effect the changes necessary to reform the system. However, it is imperative that the rationale for these extraordinary powers are widely communicated and clearly understood. In addition, it is essential that some form of sunset clause to these powers be included to ensure that such powers are not used beyond the original intent of the legislation.

We are concerned with the extensive use of the phrase "public interest" without a clear understanding of how this determination will be arrived at. The only apparent qualification for most of these extraordinary powers is the proviso that the Health minister or the Lieutenant Governor in Council consider "public interest."

We conducted a brief literature review and have found that it is difficult to define public interest and that there is no firm criteria that will hold for every single situation. There appears to be no definitive legal precedent that can be broadly applied. Macaulay, in his Practice and Procedure Before Administrative Tribunals, notes that one of the problems in assessing the public interest is the fact that a benefit to one group is often a detriment to another.

We accept that the concept of public interest is dynamic and can change from situation to situation depending on the values of those who are in a position to make the determination. We are nevertheless perplexed that the concept of public interest is not reflected in the provisions of Bill 26 referring to the Private Hospitals Act. Albeit owned privately, private hospitals still use public funds to provide services to members of the public. As such, we are particularly concerned with unqualified legislation that relates to how public interest is determined. In the relevant sections of Bill 26, this power is vested in the Health minister or Lieutenant Governor in Council. AOHC believes that these powers need to be filtered through a process which includes that public input and consultation be incorporated into the legislation as a criterion for the Health minister's or Lieutenant Governor in Council's consideration of what is in the public interest. The relevant authority must give regard to the diversity of Ontario's population as it relates to the varying levels of health status as influenced by gender, age, disability, socioeconomic status, geography, culture, ethnicity and language.

We are concerned that the legislation process will be held subordinate to the regulations process. Amendments proposed in schedule F, part I, of Bill 26 do not define the function of the Health Services Restructuring Commission being created. Notwithstanding this lack of definition, the amendment proposed in subsection 2(1) grants the Health minister the power to make regulations for "assigning duties to the Health Services Restructuring Commission and respecting any conditions with respect to the assigning of those duties." We are greatly concerned that the proposed amendments will allow for the subsequent granting of extensive powers possible through the regulations process.

For example, subsection 8(8) of schedule F of the bill states: "Where a regulation is made assigning a duty to the commission, the Lieutenant Governor in Council may provide that only specified members of the commission are to carry out that duty or that only specified members of the commission are to carry out that duty within a specified geographic area, and where the regulation so provides, any action or decision of those members shall be deemed to be an action or decision of the commission."

This amendment is clearly dangerous, not only in the sense that specified individuals can act without the need for their authority and direction to be sanctioned by the commission as a whole, it is also alarming in that it confers to individuals extensive powers that have not previously been given scope by legislation.

The regulations process as such is not subject to credible public scrutiny nor is it open to debate as required by the legislation process. In this case, there is great potential for the subsequent granting of extensive powers to be hidden from public scrutiny. We believe that regulations must only be used to define in greater detail powers that are already broadly referred to in the legislation, and strongly caution the government against this approach.

We are concerned with the potential for Bill 26 amendments to be in conflict with existing legislation. Once proclaimed, the provisions of Bill 26 will be disconnected from their original purpose, which is fiscal savings and restructuring. These provisions then become consolidated into specific existing statutes such as the Ministry of Health Act, the Public Hospitals Act and others.

Once integrated into other pieces of legislation, the provisions of the bill become subordinate to other purposes not envisioned by the drafters of Bill 26, which opens the door to potential abuse of power and disregard for the democratic process. In addition, even some of the seemingly more modest proposals for achieving savings contained in this bill may be subject to substantial abuse of power over time.

We believe the intent of amendments must be incorporated in Bill 26 provisions. Bill 26 provisions respecting the Health Services Restructuring Commission create only the shell that would subsequently allow for the

granting of potentially extensive powers through the regulations process. In its November 29 fiscal and economic statement, the government has clearly stated its intent in creating the commission as being to "facilitate the restructuring of the hospital system." Subsection 8.1(4) of the existing Ministry of Health Act defines in great detail the functions of district health councils.

Restructuring of the health care system requires significant and massive shifting and readjustment of funding, governance structures, services, provider roles, among others. It is, and will continue to be for some time, a painful and frustrating process for most Ontarians. Nevertheless, we believe that some mechanisms open to government could alleviate some of the frustration through a clarity of direction and transparency of process. It is imperative that the functions of the Health Services Restructuring Commission be defined to ensure a clear delineation of the role of the commission as it relates to the existing role of district health councils.

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There is a lack of built in appeal mechanisms in Bill 26. While Bill 26 provisions are unprecedented in the scope of powers given to the Minister of Health and the Lieutenant Governor in Council or their respective designates, there is no corresponding set of appeal mechanisms. The government's previously noted health care goals will only be given life if tested against a system that allows concerns arising from government decisions to be heard. As noted in the previously noted Progressive Conservative Party document, "The public should be a key player in determining local community health care priorities." We urge the government to incorporate appeal mechanisms into Bill 26 that will allow the public at the local level a key role in determining their health priorities.

We are concerned with the erosion and nullification of authority and autonomy of duly incorporated local boards of directors. We believe that provisions in Bill 26 supersede existing accountability and authority granted already to local boards through the Corporations Act.

In Ontario, as most of you are aware, local public hospital boards are incorporated under the Corporations Act and specific corporate powers are also provided for under existing sections of the Public Hospitals Act. This approach, we believe, provided an assurance that the local facility is subject to appropriate lawful checks and balances contained in the legislation. At the same time, this also allows community input and local autonomy and authority in decision-making.

The provisions of Bill 26 specific to amending various portions of the Public Hospitals Act have the direct effect of undermining and nullifying a local board of director's authority and autonomy. For instance, the ministerial powers detailed in subsections 6(1) to (8) of part II, schedule F, are tantamount to the displacement by default of the corporate status of the local board. In effect, the proposed amendments render the local board of directors merely an instrument of the Health minister to do as he wishes, with little or no qualification. In concert with the other provisions of Bill 26, this approach eliminates the capacity of local boards to ensure that the community has more say in establishing its health priorities.

We are concerned that the bill by default creates a parallel system of authority and accountability. We strongly believe that government's role is to set general policy on health, define broad parameters for the system and ensure appropriate monitoring systems that will provide accountability to both the public and the government. The process and structures for health services delivery must satisfy broad parameters set by government, but these parameters should be flexible enough to adapt to the local situation and preserve those community structures that allow for effective management.

In fact, we were encouraged by the PC Party's commitment on management and accountability, articulated in the document, which stated:

"We believe that Ontario's health care system would benefit from a team approach to management at all levels. Under our approach, professionals would be encouraged to bring innovative ideas forward and assist in system management, creating more of a team environment. This would lower barriers between professional and management and focus everyone on improving health care for the people of Ontario."

Bill 26 provisions effectively grant the Health minister or his designate the authority to manage at the local level. Notwithstanding the retention of the existing section 7 of the Public Hospitals Act, which provides for the powers of public hospitals under specified acts they are created under, sections 5, 6, 7, 8 and 9 of part II of schedule F of the bill essentially allow the Health minister to establish a parallel system of management and authority accountable only to the Health minister.

The bill must be amended to clearly delineate power and authority that can be exercised at the local level, at the regional level and at the provincial level. Without qualification, certain provisions in the bill will create a parallel system of authority without the corresponding accountability.

This situation, we believe, could lead to disorder, parallel systems competing for control, regulatory powers being applied inequitably throughout the province and other chaotic situations which would categorically undermine any possibility of achieving a "coordinated system of management, with health care professionals leading the way, working with government and incorporating community and consumer concerns," as noted in the previously noted BCSTHC document.

We are concerned that Bill 26 provisions will have the effect of undermining community capacity building and ownership. As it currently stands, existing administrative structures have been inadequate in maximizing public input into health care decisions. This situation was recognized by the PC Party in its document, which stated:

"For too long, the public has been a silent partner in important health care decisions, and has had to defer to politicians and administrators to manage Ontario's health care system.... In too many cases, there has been no real consultation with the public before services which people value highly are reduced.... True consultation only occurs when government not only listens to the people, but hears what they have to say and responds to their concerns with action."

Ironically, Bill 26 provisions exclude existing legislation that allows opportunities for public input and consultation in critical decisions regarding health services at the local level. For instance, subsection 13(1) of part II, schedule F, of Bill 26 amends existing clause 32(1)(d) of the act, which allows the minister, in making regulations respecting hospitals, to prescribe matters upon which bylaws are to be passed by hospitals. The Bill 26 amendment proposes to add to the previously noted section the following, "prescribing provisions of bylaws to be passed by hospitals and providing for the filing of bylaws with the ministry."

The current act contains numerous provisions that already allow the Health minister broad powers which include, among others, the monitoring and supervision of hospitals, the care of patients, appointments to hospital boards and approval of hospital bylaws. For example, subsection 12(1) of the existing Public Hospitals Act already allows the Health minister veto power on bylaws passed by hospitals. The Bill 26 amendment would provide the Health minister with the additional power to also prescribe what those bylaw provisions should be.

In effect, there is no substantive decision-making power left in public hospitals, and unless amended, Bill 26 will result in a total lack of legislative requirement to involve the community in the determination of health care priorities at the local level. Unchecked, the situation will inevitably lead to the breaking down of volunteerism, community self-reliance and community ownership as we know it in Ontario.

I'm not going to comment further on the public interest because we have referred to that previously, but it does refer to this as well.

In addition, we are concerned with Bill 26 creating the potential for unfair treatment. Provisions of part IV, schedule F, of Bill 26 open the potential for a range of facilities to be deemed independent health facilities within the meaning of the act. Subsection 5(1) of part IV provides for a director authorized by the Health minister to request one or more proposals for the establishment and operation of one or more independent health facilities by:

"(a) sending a request for a proposal to one or more specified persons; or

"(b) publishing a notice in a newspaper of general circulation in Ontario...."

We believe the proposed amendment gives the government legislative authority to be selective in who can send in requests for proposals and how these are to be processed and awarded. There is no built in assurance that fair opportunity to the public must occur.

Furthermore, provisions of subsection 7(1), schedule G, part I delete from the existing legislation reference to the fee negotiating committee which has joint representation from the Ministry of Health and the Ontario Pharmacists' Association and excludes the OPA in the determination of dispensing fees. While this could be a mechanism for keeping prices down to allow for the softening of copayment provisions, eliminating OPA's involvement results in the government dealing directly with the manufacturers without some kind of public or quasi-public disclosure review included in the act. We are concerned that the

potential for selected manufacturers to drive up the prices is real.

There are other areas that we are concerned with, and we are definitely concerned with the unprecedented disclosure of personal information, but you have that in the submission.

In the interests of time, I would like to conclude that we have, within logistical constraints, taken a close and temperate review of the provisions of Bill 26 relating to health services. We found the provisions that we believe are necessary to effect the reform of the health care system in Ontario and support those specific provisions.

We are, however, deeply concerned with specific provisions that grant unqualified extraordinary powers to government, erode and nullify the authority and autonomy of local incorporated boards of directors, undermine community capacities and ownership and open up the potential for unfair treatment as well as granting unprecedented access and use of personal health records. On balance, we believe that these provisions would put in great jeopardy the goals and commitment articulated by the PC Party as contained in its document, Mike Harris Forum on Bringing Common Sense to Health Care, December 2, 1994.

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We urge this committee to seriously consider our recommendation. We strongly believe that the legislative structure and framework for health care reform must be one that provides for a prudent balance between the rights and responsibilities of consumers and health providers with the powers and authority of the Health minister and those to whom these powers are delegated.

Finally, we have a set of recommendations which I will now quote.

We strongly recommend that the provisions of Bill 26 respecting health care services be amended to ensure that the health care goals articulated in the document Mike Harris Forum on Bringing Common Sense to Health Care, December 2, 1994, are not nullified.

We strongly recommend that public input and consultation be incorporated into Bill 26 as criteria for the Health minister's consideration of what is "in the public interest." Furthermore, we urge that in considering what is in the public interest, the Health minister give regard to the diversity of Ontario's population as it relates to the varying levels of health status influenced by gender, age, disability, socioeconomic level, geography, culture, ethnicity and language.

We also strongly recommend that a sunset clause on the extraordinary powers of the Health minister or his designate be incorporated into the bill.

We recommend that the government's stated intent to "facilitate the restructuring of the hospital system" in establishing the Health Services Restructuring Commission be incorporated into the provisions of the bill.

We recommend that the government use regulations only in defining in greater detail powers that are already broadly referred to in the legislation. In this respect, we strongly urge the government to delete subsection 8(8) of part I of schedule F of the bill.

We recommend government incorporate appeal mechanisms into Bill 26 to ensure that the public is a key player in determining local community health care priorities.

We also recommend that some form of public or quasipublic disclosure and review be incorporated in the bill specific to the Ontario Drug Benefit Act to ensure transparency in the negotiations with the Health minister and drug manufacturers.

Finally, we strongly recommend the deletion of paragraph 42(1)31 of schedule F, part IV, which allows the minister to pass regulations "prescribing conditions under which the minister may collect, use or disclose personal information under subsection 37.1(1) and conditions under which the minister may enter into agreements under subsection 37.1(2)."

That is our submission, ladies and gentlemen. Thank you.

The Chair: Thank you very much. We only have less than a minute per party, not really any practical time, unless, Ms Lankin, you have a very quick question.

Ms Lankin: I guess, out of the list of questions I had—let me say it was an excellent presentation. I appreciate it. The relationship between the restructuring commission role and the DHC role is currently set out in the Ministry of Health Act. Could you comment for us on what clarifications you believe are required and what amendments would be helpful in the legislation?

Ms Arrojado: I think our concern is that there is no clarity right in the bill as to what the commission will be doing, certainly not that is obvious to us, and we have spent a great many hours looking through it. It's possible that we have missed it, but there's certainly nothing in there that we think defines what this commission is, which could have broad and extensive powers on health matters.

The Chair: Mrs Ecker, one minute.

Mrs Janet Ecker (Durham West): Okay. You support the district health council public consultation process? Did I hear you say you thought that was a good thing that that should be happening, should continue to happen?

Ms Arrojado: I think what we generally support is a process by which the public can be involved in the consultation process. I don't know what specifically you were referring to as part of the process of the district health council.

Mrs Ecker: I was just going to clarify that my understanding, not being a lawyer but reading the legislation, is that Bill 26 specifically leaves the district health councils in the legislation and that they do do public consultation as part of the restructuring exercises that are currently under way around the province, that public consultation is part of that. I just thought that was a point worth making.

Ms Arrojado: It's not clear for us. We're familiar with the process the district health councils undertake, and they vary also from district health council to district health council. What is not clear to us, and what is of concern, is that we don't know whether it means anything

at all what the district health councils will do, how that feeds into the commission, what in fact is the process that will be taken to deal with that process. I think what we are seeking is some clarity as to exactly where is the input, how the input is going to be incorporated and how that is laid out so that we clearly know in fact where we should give our input to.

The Chair: Thank you very much. Mr Bartolucci, one minute.

Mr Bartolucci: It was an excellent presentation. Given what you said earlier about the document Bringing Common Sense to Health Care, having read that and having listened to it, understanding what's happened in the formulation of this bill, do you feel betrayed?

Ms Arrojado: We cannot say that we feel betrayed as an organization, because the commitment was not made to AOHC specifically, it was made in a general statement to Ontarians. However, we have taken that as a commitment to Ontarians as a whole and feel extremely disappointed that we have not been able to assist prior to this time in that process, and we're really concerned over that.

Mr Bartolucci: Do you feel that you were consulted? **The Chair:** On that note, we'll break for lunch. We appreciate your attendance here this morning and your

interest in our process. The committee stands in recess until 1 o'clock.

The committee recessed from 1206 to 1302.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair: Our afternoon session is about to begin. Our first presenter is Mr Ryan from the Canadian Union of Public Employees. Mr Ryan, welcome to the committee. You have half an hour to use as you see fit. Any time for questioning will be divided among the parties evenly at the end and would start with the government. The floor is yours, sir.

Mr Sid Ryan: Thank you for the opportunity to present this afternoon. Let me introduce the people I've got with me here today. On my left I've got May Peron. May is the chairperson of our health care workers' committee. To my immediate right is Michael Hurley. Michael is the first vice-president of CUPE Ontario. To Michael's right is Vanessa Kelly, who is the CUPE researcher. We apologize for not having a brief to present to you here today, but we will mail it in. I think you'll appreciate that we got very, very short notice of this meeting. As a matter of fact, it was late Friday evening by the time we finally got our spot today at 1:30. So we will get the brief and put it together.

Let me begin by saying that the Savings and Restructuring Act represents an enormous fraud and breach of promise perpetrated against the people of Ontario by the Harris government. It is the prelude to a revolution, not a Common Sense Revolution but one that achieves its goals at the expense of the elderly, the poor, the disabled and all the vulnerable members of our society who are so heartily despised by this government currently in power. Bill 26 is not about reform or even saving money; it is about slashing programs, privatizing our social support system and, at a more fundamental level, dismantling the democratic structures that give the citizens of Ontario control over the future of their province.

In regard to health care, the bill gives the Minister of Health unlimited authority to enact the onerous cutbacks announced in the government's economic statement. The elimination of funding to the hospital sector alone could result in the layoff of up to 26,000 workers and will severely restrict access to health care services. Bill 26 will profoundly damage publicly funded medicare and encourage the privatization and corporatization of health care. If this legislation is enacted, we will see rapid encroachment by the private sector, whose goal is to profit from illness, disability and death.

This government, if it chooses to do so, could promote genuine reform that would improve quality and access to care in an equitable and cost-effective manner. Key to this type of reform is the creation of a supportive environment for good health, which includes a strong social safety net and other public policies that ensure shelter, education, food and a safe work environment. Governing bodies of the health care system need to be democratic, accountable and representative.

In addition, specific actions must be taken to stop the true waste in the provision of health care, namely the elimination of fee-for-service payments, which encourage overbookings, overprescribing and overtreating by physicians.

In addition, we need to enact genuine patent law reform that promotes lower drug prices. Controlling drug costs would free up millions of dollars for health care.

Finally, we must preserve and strengthen the Canada Health Act. Unfortunately, recent statements by the Minister of Finance indicate that this government sees the Canada Health Act as an impediment to its ability to privatize health services.

Cuts to the drug benefit plan: The Ontario drug benefit plan provides payment for prescription drugs to seniors and those on welfare. Should schedule G be enacted, the legislation will have dramatic impacts on low-income persons and seniors. The bill would put a two-tier health care system in place, since a user fee for prescription drugs will be introduced. This, along with the proposed \$100 deductible for the poor, will mean large numbers of the sick will be unable to afford treatment. This is another breach of promise by the proponents of the Common Sense Revolution, who clearly stated in their election campaign that new user fees would not be introduced and that services to seniors and the disabled would remain untouched.

As with other sections of the bill, the minister and cabinet will have full power to establish and set, behind closed doors, the levels of user fees under the drug benefit plan. Cabinet will essentially act as pharmacists, making decisions over which drugs are eligible to receive reimbursement under the plan. The interference in the medical process by the government is astounding. Medical necessity or other health criteria do not have to be considered. Costs will be the criterion.

Deregulation of drug prices: The bill will repeal the power of the minister to regulate the price of drugs charged to anyone not covered under the Ontario drug benefit plan. Drug companies will be free to determine the prices for their products other than those provided

under the drug benefit plan. Without regulation, we can expect that the cost of drugs will increase substantially. The government is also putting itself above the law. Not only does the legislation remove any public process for setting prices of drugs and determining issues under the Ontario drug benefit plan, but it is also reversing court rulings that went against past government decisions.

Power to impose user fees: Bill 26 would provide explicit authority for the cabinet to make regulations which could permit hospitals to charge user fees for any hospital-based insured services, including those already covered under OHIP. As an example of this, the government has already announced that hospitals will be able to charge daily user fees to those patients in acute-care beds who are awaiting placement in chronic-care facilities or nursing homes. Patients will essentially be penalized because they have been placed on a waiting list for services that are already critically underfunded.

With this new legislation, the Tories are encouraging hospitals to offset their budget reductions by charging user fees, allowing them to bring in additional revenues at the expense of the patients. This is yet another example of the broken promises by the Tory government, who promised the citizens of Ontario that no new user fees would be introduced during their term in office.

Delisting of medically necessary services: To date, the Health Insurance Act has required that OHIP cover all medically necessary services provided by physicians. The bill removes any reference to medically necessary services and instead authorizes the cabinet to decide which services will be insured, and under what limitations and conditions. These provisions will most likely be used to limit access to services which are now provided under the Health Insurance Act. The government can decide at will what types of care are medically necessary and what are not. The potential for abuse is enormous and certain services which are currently covered under OHIP could be delisted simply because the government decides they are too expensive.

Loss of confidentiality of medical information: Confidentiality of personal medical information becomes a thing of the past under this legislation. Bottom-line economic considerations will override the right of citizens to have their personal medical histories held in confidence. The bill will allow the minister to collect, use or disclose personal medical information for various administrative purposes. One of the key rationales for this disclosure is that it is necessary for the effective management of the health care system. Those who are most vulnerable in our society could find themselves the victims of a campaign to deprive them of adequate and necessary levels of care because the government deems them to be abusers of the system.

At this point I'd like to pass you over to Michael Hurley, our first vice-president, who will continue with the presentation.

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Mr Michael Hurley: Today's Star has a photo story from Edmonton of a woman who was refused admittance and gave birth in her hotel. Alberta has more institutional beds available to its population than Ontario does at this

point, and the Progressive Conservative government is proposing to dramatically reduce the number of institutional beds available. We're already seeing people being turned away for services. We're already seeing people dying as a result of that. There are inquests under way in the regional municipality of Durham, for example. So these are no small matters that we're talking about here today.

The hospital closures that are under way target specific communities, and we should talk about that before we go to the powers the government is proposing to accrue to itself. Here in Metropolitan Toronto and across the province, the specific targets of the government's closure programs are services for seniors citizens, and particularly chronic care services. Seniors are very much threatened by the hospital closures here in Metropolitan Toronto and around the province. It's to close hospitals for seniors—the majority of the hospitals being looked at, I think, for closure provide those kinds of services—that the government is accruing its new powers.

In addition, other constituencies are threatened here: the poor. The closure of downtown emergency wards—which are used by low-income people because they don't have family physicians, reports tell us—is being proposed. They target a specific constituency. Here in Metro you can also see people with HIV, AIDS and women's health programs being very much threatened by the government's program.

Those are the constituencies being threatened. We already have people being turned away, we already have a dramatic access problem, and the government's expenditure reduction, which was announced contemporaneously with the Savings and Restructuring Act, is going to mean the closure of many more beds; it's going to mean many more people turned away; it's going to be mean people die in Ontario.

But the government has accrued to itself in this legislation some new powers. It's a dramatic shift for the Ministry of Health. Under the previous government we had a commitment, although it was difficult to enforce at the local level, to an open and collaborative planning process. There was an understanding that decisions around health care services should be ones into which constituencies like senior citizens had some meaningful input, and that local health authorities like district health councils should be the bodies that made recommendations to the minister. But it appears as though these bodies have not been responding fast enough, and this bill now will give the Minister of Health virtually unlimited powers with respect to the funding and operation of public hospitals. It will allow the minister to ignore the needs and desires of the local communities who access hospital services and give him unlimited control over all hospital matters.

Currently in the Public Hospitals Act, as you know, funding is allocated by specific criteria and regulation. The minister cannot terminate funding simply for budgetary reasons; his decisions must take into account their effect on patient care. Under Bill 26, however, the minister can decide that the availability of financial resources is the only relevant criterion when making funding decisions.

The minister also has the unlimited authority to close hospitals, force mergers between institutions, or order hospitals to change or eliminate the types of services they deliver. Since the government has made it clear that they think that too much money is spent on inpatient services already, it can also use this bill to compel hospitals to contract the volume of acute care that they provide. This will result in patients being forced out of the system much too quickly or even denied appropriate levels of care. As a result of these changes to health care, CUPE believes that people in Ontario will die unnecessarily.

Since the government has also stated that up to 38 hospitals in Ontario must be closed, the bill will provide it with the necessary mechanism to achieve this goal quickly and aggressively. No public consultation will be necessary even on a superficial basis. Rural Ontarians will be particularly hard hit by closures as small hospitals are shut down and sick people are forced to travel greater distances to access even the most basic hospital services like giving birth.

Finally, the bill provides tremendous levels of liability protection to the government during restructuring processes, and isn't that a wise move, since basically the government is proposing changes that will result in citizens wanting to lay lawsuits against the government and against hospitals and against district health councils because their relatives have received inferior care or, worse, no care at all. The Ministry of Health will become in effect a dictatorship, and the citizens of Ontario will have no recourse or protection from the damage that will be inflicted on them by this government.

Linked to the hospital closures, the fact that there's no new money in the health budget and that the Independent Health Facilities Act has been amended to allow for the establishment of independent health facilities of a forprofit character means that services will be driven out of the hospital sector where citizens can now receive them, paid for by OHIP; that is to say, without personal cost, no matter what your income level, you can be expecting that you will be receiving treatment and physiotherapy and other services in a hospital. Those services are closing down. The expenditure reductions the government has announced are going to make that a reality and the door has been opened to for-profit private clinics and, more specifically, American, corporations which will move into this province to deliver services. Since there's no money for it to be found in the budget, they can only be provided on a fee-for-service basis and they can only be provided on a for-profit basis.

The government is also amending the Hospital Labour Disputes Arbitration Act, under I think, schedule Q, and that will have an impact on bargaining. We'd like to record that we strongly object to the proposal which would force arbitrators to consider ability to pay in determining awards. Funding in the public sector is determined by government financial decisions. Thus, if ability to pay were a criterion in interest arbitration, the Harris government could determine wages and benefits simply by allocating fixed or reduced amounts for employee compensation.

I'd like to point out to you that we believe the most appropriate way to settle collective agreements is by allowing the parties to test their strength, with the option of resorting to strike lockout mechanisms. Legislation which forces compulsory arbitration on certain groups of employees should be repealed and these groups should be granted the right to strike. Doctors, for example, have talked publicly about strike action. If there is a group of workers that should be considered most essential to the delivery of health care, would it not be doctors? Doctors have the unfettered right to strike here in Ontario.

We have been denied these rights, those of us who work in the health care system, because previous governments have deemed our work to be part of an essential service. We have, however, been laid off by the thousands over the last five years and your proposals as a government are to lay off a further 26,000 of us. So we find it hard to continue to believe that we are as essential as you once held us to be in the past, and we would suggest to you strongly that rather than gerrymander with the legislation that affects bargaining in our sector, you institute the right to strike for health care workers.

Mr Ryan: Okay, we would be prepared to take some questions.

The Chair: Thank you very much. We have about three or four minutes per party, starting with the government.

Mrs Helen Johns (Huron): I'd like to thank CUPE for coming in to speak to us today. You represent a number of Ontarians and we're pleased to hear your view always.

I'd like to clarify a few things that I heard both of you say that I think the CUPE employees would like to hear too, so I'd like to put them into the record. The previous government closed, as did, I think, the last two governments, hospital beds throughout Ontario to the effect of closing approximately 33 mid-sized hospitals without ever closing a hospital. So there have been approximately 6,800 beds closed in Ontario at this particular time. Our process at this point is looking at restructuring the whole system on a global aspect so that we provide good health care to Ontario.

The second thing is that we have moved very quickly to solve some of the problems that were in the previous government's policies with emergency rooms. Coming from rural Ontario, I can tell you that emergency rooms—you were lucky to have them open under the previous government and the one before that as a result of having them not taking the actions that are necessary for that to happen.

In rural Ontario, we've made some substantial moves to ensure that emergency rooms are done by putting \$70 per hour to the doctors. So we're the first government that's had the strength to be able to make those kinds of statements.

The government does have no list of closures. You're suggesting to us that we have this plan somewhere to close hospitals that evolved with seniors—that act with seniors. I'm saying there is no process to talk about specific hospitals at this point. We're waiting for the

communities to decide which hospitals are open. I think we'll all agree at this table that ascertaining where hospitals are and what should be open and what shouldn't be for the need of the community is the most important aspect that you, as representing people who work in businesses, and us as representing the people of Ontario, have available to them.

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Rural doctors—we've made some substantial moves to get doctors to rural Ontario. I know you represent a lot of people from rural Ontario and we're making every effort to get these doctors here. That's why we're saying, "If you can't come up with an alternative, doctors, we'll make sure there is an alternative for rural Ontario." So your rural members shouldn't be worried about health care in rural Ontario.

Relevant criteria, talking about the lack of dollars in the system, that's where my question's coming today, I think we all know, everybody in Ontario apparently is agreeing that \$17.4 billion is enough money in the health care system. I think we all agree that there needs to be some changes to the way the health care system is evolving because we need to move it towards the next millennium. I heard you say—

The Chair: Thank you, Mrs Johns. It was an interesting statement, but I didn't hear a question there. So your time is up.

Mrs Johns: All right.
The Chair: Mrs Caplan.
Mrs Caplan: Thank you.

Mr Ryan: Could I respond to that perhaps?

Mrs Caplan: Sure. Take my time.

The Chair: I'm sorry—

Mrs Caplan: Yes. I'm allowing him as part of my time to respond, Mr Chairman.

Mr Ryan: First off, I know you said you were pleased to be hearing from us. It's interesting that it's taken six months and the brave actions of the member across, Alvin Curling, to force your government into public consultation. We've sent at least 20 letters to your minister, Jim Wilson, requesting that we have an opportunity to sit down and discuss some of these changes.

Mrs Johns: I mentioned you—

Mr Ryan: You've never met with me in your life.

Mr Curling: Don't respond.

The Chair: Excuse me.

Interjection.

The Chair: Mr Ryan has the floor. He did not interrupt you. I'd just as soon you not interrupt him.

Mr Ryan: We've never had the opportunity to sit down and discuss health care reform with your government. You've never once consulted with any union that I'm aware of; nor with the Ontario Federation of Labour, which we sit on, have you ever consulted.

Secondly, in terms of restructuring of the health care system it's interesting that Jim Flaherty from the Durham region promised us faithfully that the hospital in Whitby would be kept open as a full-service hospital and said he

would resign if that promise was not kept, and we find out just a couple of weeks ago that in fact the emergency ward in that hospital is being closed down and it's going to continue to be closed down.

In the city of Windsor where we sat down with the previous government and we negotiated an agreement between the unions and the hospital administrators about how we would close some hospitals, but keep the money in the community so we could put it into community-based care. There was \$70 million we found in savings. Your government has come in just two weeks ago and scrapped that agreement between the employees and the hospital administration to the point now where the agreement in Windsor is in jeopardy.

So don't talk to me, please, here today about how your government is looking after reinvesting health care dollars in the community-based care because it is not. It's an absolute lie.

The Chair: Thank you, Mr Ryan, and thank you, Mrs Caplan, for donating your time.

Mrs Caplan: In fact, my question was going to be, have you been consulted? Would you be willing to be a partner and do you trust these guys, but you've answered that.

The Chair: Okay. Ms Lankin.

Ms Lankin: Thank you very much. I appreciate all of the elements of your presentation and there are a number of questions I would like to pursue with you, but time is short.

In one area in particular, as I read some of the amendments to the Public Hospitals Act, I'm concerned about the powers given to the minister in the appointment of investigators and supervisors and sort of the unfettered powers of what they can investigate now as compared to the previous legislation and, in addition to that, the ability of the minister to give directions to the supervisor and/or to boards, as a matter of fact, even when a supervisor isn't there. In particular, there is a provision that says that when the minister gives direction to a board of a hospital, despite any other act, despite any letters patent, despite any bylaws or any contracts, if you look into the section on regulations, the board is deemed to have the power to implement the minister's directions.

I raised this question with the minister and I didn't get a clear answer, and perhaps it is complicated, but I'm wondering whether you have any opinion as to whether or not that could lead to the overriding of collective agreements and/or other forms of service contracts that exist within hospital employment.

Mr Hurley: It's clear to us that the bill gives the government dramatically new powers, the power to, in effect, take over the operations of any hospital it wants to, and it makes a mockery of any notion that the health services should be run on the basis of public input and consultation democratically by volunteers etc; all of which seem to be things that most people agreed upon in the past, and certainly contradicts the direction of the government.

With respect to our collective agreements, we will not allow our collective agreements to be overridden by this government. If there's an attempt to do that in the health care sector, then I think you'll see some form of illegal strike action. People will not allow that to happen. We will not pay for the deficit, these workers who are making \$12 and \$14 an hour.

In terms of the new powers the government is accruing to itself and in response also to the previous question, I think that it's important the government is going to be driven to close hospitals by the economics of the situation, not at all by care criteria. And they will be closing hospitals, they have encouraged hospitals to close beds and to move to outpatient and ambulatory services and clinical services to deliver those to people. Hospitals have done that.

They now have closed beds, and now they will close hospitals by pretending that all of the care is oriented around the beds, when in fact we have two previous Ministers of Health sitting on this side of the table, both of whom will say probably they invested a good deal of their efforts trying to ensure that in fact the health care system moved away from beds and on to services. What they're really doing here is cutting the money for services, and with the introduction of the other change it will mean for-profit services will sprout in their place and people will not get care.

I think they need these powers, Ms Lankin, in order to close the hospitals, and they're going to do that—I think they're going to start to do that, and there's going to be tremendous opposition to doing that.

The Chair: Okay. Thank you very much. We appreciate your participation in our process and your presentation here today.

TORONTO PSYCHOANALYTIC SOCIETY

The Chair: The next group are the Toronto Psychoanalytic Society, represented by Dr Douglas Weir and Dr David Iseman.

Welcome to our committee, gentlemen. You have a half-hour to use as you see fit. Any time that you leave for questions will be divided evenly, and the Liberals will start the questioning when the time arises.

Dr David Iseman: My name is David Iseman and I'm the president of the Toronto Psychoanalytic Society. I'm appearing today with Dr Doug Weir, who is the acting chair of the public affairs committee of the Toronto Psychoanalytic Society.

We represent the members of the Toronto Psychoanalytic Society, as well as the three other Ontario branches of the Canadian Psychoanalytic Society. Currently there are over 200 psychoanalysts in practice in Ontario. About 90% of these people are psychiatrists who, after completing their medical degrees and subsequent psychiatric qualifications, have undertaken an additional five years of intensive psychoanalytic training prior to qualifying to practice as psychoanalysts.

Most psychoanalysts pursue their psychoanalytic training after completing a psychiatric residency. Psychoanalytic training takes a minimum of five years under extensive supervision. Few other psychotherapies require or provide as much training. In fact, most psychoanalysts regularly supervise GPs, psychiatrists and non-medical

practitioners who have practices in which they, in turn, provide short-term and long-term psychotherapy.

Among the members of the Ontario psychoanalytic societies are to be found many of the leading psychiatric educators within our province, men and women of outstanding qualification, expertise and commitment. There are also among our membership a few non-psychiatrist physicians and psychoanalysts with PhDs in psychology or other related fields. As you know, only physicians are permitted to charge their psychotherapy services to OHIP.

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Psychoanalysis is one of the most studied forms of treatment, and its efficacy and results are well documented. Psychoanalysis is a proven, effective treatment for serious mental illness that forestalls psychiatric hospitalization, reduces other forms of medical utilization and provides savings to the health care system in direct and indirect cost offsets. Eighty-two per cent of patients currently in psychoanalysis have already tried briefer forms of treatment without success.

Many patients consider themselves to be in analysis regardless of the treatment they are receiving. Although some may be in a type of psychotherapy, only a very small number are actually in psychoanalysis; that is, a treatment for serious mental illness requiring four to five sessions per week for an extended period of time, typically three to seven years. Psychoanalysis is long, but it is not interminable. The average analysis lasts about five years.

Psychoanalysis is only one kind of psychotherapy derived from psychoanalytic concepts and technique. There are other types of psychotherapy, some of which are unrelated to psychoanalytic theory. In fact, there are more than 250 distinct psychotherapies. The results of some of these methods have never been systematically studied. Psychoanalysis and psychoanalytically oriented psychotherapy have the distinction of being documented in all general psychiatric textbooks. Similarly, the principles of psychoanalytically oriented psychotherapy are a required part of the curriculum of all Canadian psychiatric training programs, whereas many of the other psychotherapies are not covered at all or are optional.

Every leading psychiatric association across Ontario and Canada has unequivocally supported the retention of psychoanalysis as an insured medical procedure. Dr Fred Lowy, former chair of the department of psychiatry at the University of Toronto and formerly dean of the faculty of medicine at U of T stated: "Psychoanalysis is an effective form of intensive psychotherapy for the limited number of patients for whom it is indicated. Indeed for persons with certain crippling personality disorders it is the treatment of choice." The five current chairs of the departments of psychiatry at Ontario universities agree.

Our presentation today concerns the impact of recent proposals by the government of Ontario under Bill 26 to permit the government to unilaterally define an insured service and to set fees for the provision of those services. The consequences of these measures could include a reduction in the accessibility to psychoanalytic psychotherapy services through arbitrary funding cuts, restric-

tions on where it could be practised and other serious obstacles. Patients will suffer.

Bill 26 could further reduce accessibility to psychoanalytic psychotherapy by determining that new psychiatrists wishing a community-based psychoanalytic practice which does not require a hospital appointment would not be eligible to obtain an OHIP billing number. This would likely limit the number of new psychiatrists who decide to pursue psychoanalytic training. Any disincentive to undertaking psychoanalytic training will have extensive consequences because the supervision of GPs, psychiatrists and non-medical psychotherapists, which is a part of any analytic practice and which incidentally does not result in a direct charge to OHIP, will be lost.

The legislation will also have grave consequences for the practice of psychoanalysis. The government could, without a warrant, seize patient records, review and disclose patient information by public officials for any purpose. There would then be no safeguards on the privacy of the records and the confidentiality between patients and their doctors. Confidentiality is essential in the establishment of trust in the analytic setting, and trust and openness are crucial to change in the individual. Patients with profound difficulty, such as traumatic disorders, severe depressions, personality disorders and other serious mental illnesses do respond. Psychoanalysis is one of the most intense, intimate and yet misunderstood treatments in medical practice.

I'd like to call on Dr Doug Weir to elaborate on these issues.

Dr Douglas Weir: In November 1993, I was privileged to appear before the standing committee on social development to speak about the impact that delisting effective and medically necessary treatments like psychoanalysis would have on patients in need, and to voice the concerns of our profession on how arbitrary and unilateral decision-making would seriously limit our ability to maintain clinical integrity.

In the spring of 1993, the former government had introduced Bill 50, which in its original text included severe measures restricting access to psychotherapy services. These measures would have destroyed our ability to provide patients with necessary psychoanalytic treatment under OHIP. Under this proposal, people seeking treatment for serious mental illness would have been unfairly discriminated against and denied access to intensive psychotherapy and psychoanalysis when that was the care they needed.

Our patients are among the most vulnerable in society, and allowing them to be neglected would not only be unconscionable but it would also have ended up costing our health care system more, both in direct and indirect costs. Thankfully, the amendments introduced to Bill 50 avoided these outcomes, partly as a result of the work of several prominent members of this Legislature from all parties.

For those of you who may not be aware of the details, the controversy surrounding the fight against the NDP proposal to restrict access to intensive psychotherapy took more than three years to resolve. In February 1992, psychiatrists in Ontario had learned, without warning or

consultation, that psychoanalysis was included on a list of so-called borderline cosmetic surgeries. This list was being considered for removal from the schedule of OHIP benefits.

A vigorous defence of psychotherapy and psychoanalysis was launched. The Ontario branches of the Canadian Psychoanalytic Society, the Ontario Psychiatric Association, the chairs of psychiatry of the five medical schools in Ontario and a dedicated, tenacious group of patients raised their serious concerns. Despite their warnings, the government continued to give consideration to this proposal, and in March 1992 referred it to the joint management committee of the OMA and the Ontario government for their recommendation.

The JMC reviewed the scientific evidence supporting the efficacy and medical necessity of psychoanalysis. On October 14, 1992, the JMC made a clear recommendation to the ministry to maintain psychoanalysis as an insured service. The Minister of Health wrote to anxious patients reassuring them that the JMC subcommittee recommendation was "for psychoanalysis to be maintained within the fee schedule and that no further action would be taken without consultation with the OMA and others."

You can imagine their distress when they discovered their ongoing treatments were once again under attack with the introduction of Bill 50. After further representation, Bill 50 was amended in a way that retracted the measures restricting access to psychotherapy and psychoanalysis.

The Honourable Jim Wilson, currently Minister of Health, was the then Conservative Health critic. He said in the Legislative Assembly of Ontario on July 26, 1993, of Bill 50: "The government is using its current fiscal situation as an opportunity to pass this very dangerous legislation. There are no limits on what services can be restricted by the government under Bill 50. It's not just psychotherapy.... The power to ration insured and medically necessary services applies to everyone and everything. The number of medical services deemed appropriate can just be decided unilaterally by some bureaucrat saving money, some unaccountable bureaucrat who has no agenda but the government's agenda."

Having heard the Honourable Jim Wilson make these remarks in 1993, I was shocked when I heard that the Conservative government's omnibus legislation, Bill 26, contained health-related provisions providing the government with almost unlimited control over the delivery of medical services and giving them unilateral decision-making authority. This time, psychoanalysis and psychotherapy are not specifically mentioned in the bill. However, this legislation proposes to give the ministry even more authority to make unilateral decisions than Bill 50 did, with all its potentially negative outcomes, a proposal which Mr Wilson had so effectively criticized and had helped to defeat only two years ago.

Schedule H of Bill 26 contains amendments to the Health Insurance Act and the Health Care Accessibility Act. These amendments permit government to unilaterally define an insured service, allowing them to refuse to pay for services if the general manager of OHIP "believed that all or part of the services were not medically or

therapeutically necessary," and permitting the general manager of OHIP to have a physician repay "unnecessary services."

Despite these references to "insured services," "uninsured services" and "medically necessary" services, there are no guidelines that define "medical necessity." One reason may be that no universally recognized guidelines exist about what is and what is not a medically necessary service.

Schedule H of Bill 26 permits the government to unilaterally determine the fees payable for an insured service and allows for the basic fee for an insured service to be nil. The bill also allows for an adjustment of the fee payable for an insured service by decreasing or increasing the fee on the basis of specialization, frequency with which the physician or practitioner provides the insured service, the geographic area in which the insured service is provided, the setting in which the insured service is provided and other unspecified factors. These regulations would effectively delist services by making the fee so low that it would be impossible for physicians to offer these otherwise insured services.

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We are greatly concerned that these proposed regulations could be used to arbitrarily cut psychoanalysis on the basis of unilateral decisions by the government. Our members, like other service providers in the health care field, understand the challenges we all face in the responsible management of health care costs in Ontario. However, our experience has shown that ill-conceived proposals combined with a lack of consultation can result in seriously flawed health care policy.

Our purpose in coming here today is to warn you against the dangers of delisting effective and medically necessary treatments and to point out the negative impact of arbitrary and unilateral decision-making on our ability to maintain clinical integrity.

Ironically, I am here to repeat the Honourable Jim Wilson's 1993 words: "The government is using its current fiscal situation as an opportunity to pass this very dangerous legislation. There are no limits on what services can be restricted by the government under Bill 26."

Even more alarming is that such unilateral decisions by the Ministry of Health could have the effect of making clinical decisions on behalf of patients and undermining the principles of medicare, affecting both comprehensiveness and universal access to needed treatment.

In 1993, the ministry neglected to consult widely on this issue. Instead of having to consult more, Bill 26 would allow the ministry a free hand to introduce proposals such as a limitation on psychotherapy without having to consult with anyone.

Psychiatrists and psychoanalysts are aware of the need for changes in the delivery of health care in Ontario. We hope you will take the initiative to correct this legislation and ensure that health care policy is not given over to the flawed process which yielded similar proposals in the past.

Before I finish my presentation and answer your questions, I want to address two additional problems with Bill 26.

Bill 26 permits the government to unilaterally determine what constitutes an eligible physician for purposes of obtaining a billing number. After this section of the bill comes into force, new physicians, if they are a specialist, and 90% of psychoanalysts are specialists in the area of psychiatry, in order to acquire a billing number, will be forced to have a hospital appointment. Psychotherapy and psychoanalysis are traditionally community-based therapies and normally do not require a hospital appointment to be effectively carried out.

This does not mean that we do not treat patients with serious medical problems. In 1993, Dr Norman Doidge, head of the assessment clinic at the Clarke Institute of Psychiatry, conducted a survey of Ontario psychoanalytic practise and found that the major users of psychoanalysis in Ontario are women of average income, not the worried well or the rich neurotics that are pictured in the media. Frequently, these patients have histories of childhood trauma such as sexual abuse, physical abuse and death of a sibling. Eighty-two per cent had attempted other forms of treatment, including briefer forms of psychotherapy and medication, prior to psychoanalysis. Most patients had multiple psychiatric disorders.

Long-term psychotherapies lead to decreased physical morbidity in patients, and numerous studies have shown that medical utilization by emotionally disturbed people decreases following outpatient psychotherapy. There is also evidence that psychoanalysis and long-term psychoanalytic psychotherapy forestall psychiatric hospitalization. Even considered solely in terms of health care costs, outpatient psychotherapy and psychoanalysis is not an undue burden on the health care budget.

The ability of psychoanalysts to work in the communities in which their patients live has proven to be effective from both a service delivery and cost-savings point of view. Bill 26 would seriously limit the ability of future psychiatrists from practising in the community. Currently, psychiatrists in the so-called oversupplied areas often have long waiting lists and the Ministry of Health has never adequately documented that there are too many practitioners in those areas.

Our members would urge you to reconsider those aspects of Bill 26 that limit new psychiatrists from opening practices in the community without a hospital appointment.

The final issue I want to address today is the impact Bill 26 will have on patient confidentiality. The Ministry of Health has identified as a priority the need to prevent inappropriate and fraudulent billing and to increase recovery of overpayment for inappropriate and fraudulent billing. To achieve these objectives, schedule H of Bill 26 includes amendments that provide the Ministry of Health with new investigative powers by which inspectors can enter and inspect a physician's office without a warrant and collect patients' records. With its new power, persons receiving an insured service will be deemed to have authorized government to use at its discretion personal information regarding those insured services.

Our members are mindful of the need to monitor fraud in our health insurance plan. Unfortunately, there are no safeguards in schedule H of Bill 26 to protect the confidentiality of patient records.

The first principle of psychoanalysis and psychoanalytic psychotherapy is the confidentiality of the treatment. It is the foundation of trust between the practitioner and the patient. Although this is recognized by everyone, infringements of confidentiality are often too easily accepted in the pursuit of other goals. Many people in psychotherapy or psychoanalysis have been abused by people in positions of authority and would be very wary of giving authorization to Ministry of Health inspectors to look at their psychotherapy records at the discretion of an inspector who they do not know or have any reason to trust. The consequences of the measures in Bill 26 will be to discourage vulnerable individuals from seeking the medical treatment they need because they are afraid that the privacy of their medical records and the confidentiality between them and their doctors will be open to arbitrary violation.

We ask that Bill 26 be changed to provide safeguards for patient confidentiality. The general manager of OHIP knows who the patients are who receive insured services from any physician. It would simply be a matter of requiring that inspectors request permission from patients whose records they wish to look at. By doing this, patients would know when their records are being looked at, and if they felt the material contained in their record was too personal, the inspectors could obtain the information necessary to meet the ministry objectives by interviewing the patient. Such an interview would establish whether the insured services were rendered, whether the insured services were misrepresented, and this process would preserve the patient's ability to protect the privacy of their medical records.

The College of Physicians and Surgeons already has the power in its peer review program to investigate if services are being provided according to accepted medical standards. The ministry has not provided sufficient explanation as to why inspectors who are not necessarily medical practitioners are also needed to carry out this task. We fail to see the need to rush this part of the legislation through without proper consultation with the College of Physicians and Surgeons, psychiatrists, patient groups and our own members. Again I repeat the Honourable Jim Wilson's 1993 words, "The government is using its current fiscal situation as an opportunity to pass this very dangerous legislation." There are no limits on what inspectors can do under Bill 26.

Health care providers and patient groups are too often ignored by the ministry as it follows its own misguided course. We hope you will take the initiative to remove those aspects of this bill that are harmful because they compromise the delivery of care, individual freedoms, the privacy of records and the confidentiality between patients and their doctors.

We would ask that you not use the current fiscal situation as a reason to pass legislation that will provide the government with almost unlimited control over the delivery of medical services. We hope you will take the initiative to remove those parts of schedule H of Bill 26 that we address today and allow adequate consultation with all stakeholders so that health care policy is not given over to this flawed process.

We will be pleased to answer any questions of the committee or provide clarifications on any of the points we've raised.

The Chair: Thank you very much, gentlemen. We have a short time left for questions, beginning with the official opposition. You have two minutes, Mrs Caplan.

Mrs Caplan: Yes, I'll keep it very short. I am assuming that you were not consulted. Is that true?

Dr Iseman: That's correct.

Mrs Caplan: Now, this is not the first time that this issue has been before a legislative committee. At the time of the introduction of the Independent Health Facilities Act, your organization was here with identical concerns, I know, because that was the bill I brought forward, and it was amended to put in place the protections that responded to your concerns. You were here again in Bill 50, and at that time it was Jim Wilson and Ernie Eves both who were advocates. Why do you think you weren't consulted on this, since they obviously were aware of your concerns?

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Dr Iseman: Well, I did write the minister when he first took office and reiterated the offer to consult and offer whatever help I could and I got a very polite response thanking me and he said he would be in touch. That was the last thing.

Mrs Caplan: But they promised that they would consult in their CSR document.

One last point: The concerns that you raise around arbitrary violation of confidentiality is something of course I've been very concerned about, but it's more than just arbitrary, it's even inadvertent violation. This law, for the very first time, says to the minister, anybody who works for the minister, the general manager of OHIP, anyone who even inadvertently releases confidential information, that they are protected from any lawsuit or recourse. Were you aware of that provision, and did you want to speak to that in the last couple of seconds that you have?

Dr Weir: I guess I wasn't aware of it, but that just underlines the importance of looking at this, and I guess part of that must have to do with my sense that this is being rushed through and that there hasn't been enough time for the various people involved to look at it and to build into it safeguards for patient privacy.

Mrs Caplan: In fact, if Jim Wilson had had his way, this would be law today.

The Chair: Thank you very much, Mrs Caplan.

Ms Lankin: Thank you for your presentation. You referred at one point to the powers of the general manager of OHIP, and there are some changes being proposed under the Health Insurance Act that would give the general manager, and the minister—cabinet—more powers, many of them able to be exercised unilaterally and without any right of appeal. I think when you put it all together, it's quite concerning.

There is a section in which the general manager can refuse payment if the general manager believes a particular service is not therapeutically necessary. It seems to me that this would involve the general manager in second-guessing the appropriateness of particular treatments, and I'm really concerned about that in a lot of ways. Currently, there is a whole process that people can undertake with the College of Physicians and Surgeons with respect to the appropriateness of treatment decisions by physicians, but this gives a bureaucrat in the Ministry of Health the right to second-guess, and very little options around appeal. Have you looked at that section, and what does that mean for your particular profession and your patients?

Dr Weir: Yes, I've looked at that, and that concerns me also, especially because I don't know what information they would make that decision on, first of all, so it would be very arbitrary, and there would be no mechanism for the patient to appeal, and that in the end they would not get any treatment. It would be after the fact, in a way, after the treatment had maybe been started, and there would be no mechanism for the patient to maybe get that reinstated.

Ms Lankin: Would that require the general manager to review the patient's files in order to make a decision about the appropriateness of treatment?

Dr Weir: That would be one way, and then at least they would have some information. My fear would be that they in fact would go on the kind of information that one submits to OHIP, which is very limited, in terms of age, sex and diagnosis. That's really the only information that they have.

The Chair: Okay, thank you, doctor. Anybody from the government?

Mr Clement: Thank you for your presentations. Under the current system, in terms of confidentiality of records, the general manager, as you quite rightly put it, has the ability to acquire information as to who is receiving insured services. And you make a worthwhile point in terms of the type of information that you feel comfortable could be conveyed to an investigator. Really, we're not talking about, as far as I understand it, the actual records of the type of sessions that the patient is having. Are we really not talking about whether that person has received the service and whether there has been an accurate reflection?

Dr Weir: If I can answer that, okay, if that's what they want to do, they already have the power of doing that. Whether somebody comes to my office, I submit to OHIP. OHIP already has the power and regularly does this. They randomly select my patients to check whether I in fact actually saw them.

It seems to me that other than whether I've seen the patient, if they want to make the kinds of decisions that this bill is addressing, they have to look at the whole record. It's not like it's just a list of appointments that I saw people. It has all the intimate details of their life in it, and they're going to be looking at that to make the decisions as to whether or not it was therapeutically appropriate, and it's going to be somebody who has maybe no training but is some low-level clerk at OHIP who on some random basis is going to decide whether or not a decision was made appropriately.

Mr Clement: You're making a few assumptions there, but you do acknowledge in your paper that fraud is a potential problem and that there has to be a balancing of the needs of society—the taxpayers—to root out fraud, with the rights of the individual, that there has to be a balancing there.

Dr Weir: Yes, there has to be a balance, but I think that they have enough powers now to do that. I don't know if they need to be able to charge into my office and look into patients' records, and I don't think the people of Ontario want these inspectors to be doing that.

Mr Clement: I don't think anybody is suggesting that we're going to do that.

The Chair: Thank you very much, Doctor, and thank you, Mr Clement. We appreciate your involvement in our process.

Mrs Caplan: It's what you're doing.

Mr Clement: That's the way a democratic society works.

Mrs Caplan: On a point of order, Mr Chair: I would suggest that Mr Clement read the act—

Mr Clement: If the honourable member wishes to pass the time, her time, to do that—

Mrs Caplan: —because he's trying to put on the record information that is not accurate.

The Chair: Excuse me.

Mr Curling: On a point of order, Mr Chairman: Why don't you go and listen to her?

Mr Clement: I've listened to her ad nauseam.

Mrs Caplan: Read the bill. At least find out what's in it.

The Chair: Excuse me.

Mrs Caplan: Thank you.

Mr Clement: No, thank you.

The Chair: I would appreciate it if we would show some respect to one another, and when somebody has the floor, we'll allow them to talk. You have your turn.

Thank you very much, doctors.

SUNNYBROOK HEALTH SCIENCE CENTRE

The Chair: Is Tom Closson from Sunnybrook Health Science Centre here? Welcome, Mr Closson. You have half an hour to use as you see fit. Questions at the end will be divided. The time will be divided evenly, beginning with the New Democrats. The floor is yours, sir.

Mr Tom Closson: Thank you very much. I want to talk to Bill 26 and the impact it has on hospitals, and I want to talk specifically about changes to the Public Hospitals Act and also changes to the Hospital Labour Disputes Arbitration Act.

Just to summarize very quickly, I'm going to discuss the need for having Bill 26, given our critical financial situation. I want to identify some changes that I think should be made to Bill 26 where I think it goes a little bit too far, and I also want to identify some changes that should be made to Bill 26 where I don't think it goes far enough.

Let me first of all talk to the need for the bill itself. This province is in a serious financial situation due to overspending by governments in the 1980s and the early 1990s. In health care alone, as I'm sure you all know, the amount of money that went into hospitals and physicians' services, which makes up about 70% of health care, increased through the 1980s and the early 1990s at the rate of 10% per annum, which is much faster than the gross domestic product, much faster than inflation and population and any measure you can think of. We got a little carried away during those years, to a large extent due to health overexpenditure, I would suggest, and now we've ended up with an accumulated debt of close to \$100 billion.

I like to think about this: that if we didn't have this accumulated debt, meaning we didn't have interest payments to pay, we wouldn't have a deficit right now. So the situation we have today is because of overspending. We wouldn't have to be cutting anything today if we hadn't overspent over the last 15 years. It's something for all of us, and I'm not just blaming it on the politicians; I think the public had a big part in pushing the politicians to overspend.

Now, in Ontario at the moment we don't have a health care system. I'll say that again: We don't have a health care system. We have over 200 hospitals, we have over 200 laboratories, we have thousands of physicians practising alone in single-office practices and we have thousands of health and social service agencies. The big word among most of them is "autonomy," and I think autonomy is what's getting us into major difficulty in this province and again one of the main reasons we're overspending and clearly the reason we don't have a health system.

In fact, I'd go so far as to say that I see an enormous amount of self-serving behaviour going on among the various providers and among the agencies that are being funded by the government. Rather than focusing on working together or merging or integrating to be able to ensure access for patients, the major concern of these organizations seems to be autonomy, independence, at a time when we can't afford to spend the amount of money that we're currently spending.

This level of autonomy I think is putting patient care at major risk if we're going to cut the amount of money out of the system that has to be cut out of it so that we can balance the budget. The bottom-up consensus building that was attempted over the last five years clearly hasn't worked. The amount of energy all of us as providers have spent trying to get together in consensus-building activities has really produced very little. Certainly as individual organizations we've been trying to improve our own efficiency, but the health care system's efficiency can't be improved by individual organizations operating alone. There has to be a much greater level of integration among hospitals and between physicians and hospitals.

This 18% that's being cut out of hospitals over the next three years is a huge number. I don't want to minimize the size of that number. In fact, it'll be taking us back to what hospitals were funded at in 1989-90 by the time we get to 1999-2000. But having said that, I think it's something that is necessary. Given it's such a

huge amount of money, the only way you're going to get the money out is by taking drastic measures, things like closing and merging hospitals, which in my opinion is long overdue. We have many hospitals operating in this province at far below their built capacity. Health care has changed enormously. You don't need all these beds; you don't need all these buildings. You need to provide services close to people in their homes; you need to have organizations working together. Closures and mergers need to happen. Not too many hospitals are coming up to volunteer to close or merge.

1400

Changing roles: Hospitals have been providing whatever service they think is appropriate, not necessarily what their local community requires.

Integration of doctors and hospitals to create a health system: This bill doesn't really deal with that in any big way, but I've got to tell you, once we get through the next two to three years, there are much more substantive changes that need to be made in the health care system to bring together hospitals and physicians into integrated health systems. The days of doctors and hospitals being autonomous from each other really have to end. If you want to have an efficient system, as you can see in other jurisdictions, that's the direction everyone is heading.

So I believe overall, then, the government has to intervene to force the changes that need to be made in health care. These changes are not going to occur on their own, and if we cut 18% out of the system without closures and mergers and changes of roles, we're going to see very much reduced access to health care.

Where the bill goes a little bit too far—and I'm not going to be very comprehensive here because the Ontario Hospital Association's speaking later today and I generally agree with what they're going to be saying to you, so what I'm going to do is just focus on a couple of points that I think are very important.

The first one is voluntary governance. In the end, several years down the road, I don't think this government or any government will want to be involved in micromanaging the system. My understanding is, the civil service is going to actually decline in its size, and it's a very complicated system. So you have to ultimately put the responsibility for day-to-day management back in the hands of voluntary governance structures. Therefore, I think it's very important that the major powers that the government is taking on to itself in the short term, which I think are essential to make the changes that need to be made, be time-limited. I heard through the rumour mill this morning that the minister said at the beginning of this session that he already plans to do that, but the specific things that need to be time-limited are directing boards to cease operating hospitals, directing boards to cease to provide specific services and directing boards to amalgamate. I think that we don't, as taxpayers, want to see a government that has a sufficient number of civil servants to be able to provide information that would allow that to happen in any sort of planned-out way. So I think we're much better off getting on with the major changes and then trying to remove some of those significant powers that have been centralized through the legislation.

The second thing, and it's a more minor issue but I just want to put it on the table because I don't know who else is going to put it on the table, is that in the act it talks about "hospitals may appoint physicians only in accordance with approved human resource plans." This may sound like a very innocuous little statement, but in my opinion it's unworkable. You've got to understand that a doctor is not a doctor. In a teaching centre like ourselves, doctors are involved in clinical practice, in research, in teaching—I couldn't tell you exactly the number of physicians by specialty that I will need in a year or two from now. Things change very quickly. If a doctor spends more time on education, they have less time for clinical practice. If they spend more time on research, they have less time for clinical practice. Having to go back to the government to get these medical manpower plans or staffing plans approved would just be a waste of everybody's time.

I understand that the reason for putting this into the legislation was to try and control the OHIP pool and trying to make sure that specialist physicians are tied into hospitals. I believe strongly that specialist physicians should be tied into hospitals, but I think they should be tied in a lot more strongly than just in a medical staffing plan. We need to integrate the funding for hospitals and physicians, particularly specialist physicians, and also with economic linkages to primary care physicians so that you can actually develop integrated systems of hospitals and physicians. That's the way you're going to get savings in the system. That's the way you're going to get continuity of care so that the physicians and hospitals together can focus on providing care and service to a community, to a population, as opposed to just doing their little piece of the action which is what it is now with all of the discontinuities of the provision of service.

I haven't seen any government over the last 10 years really make very significant strides in this area and I think it's essential that we start thinking about having a health system rather than just having a bunch of providers.

The final thing I want to talk about is where the bill doesn't go far enough. This bill is intended to remove barriers to restructuring, and that I applaud, as I think you've already gathered, but it doesn't address weaknesses in the Hospital Labour Disputes Arbitration Act regarding contracting out. Hospitals need the flexibility to look at options for sharing services, to take advantage of technology.

I'll give two examples: food services and laboratories. In Ontario we spend \$1 billion a year on lab services. There are over 200 labs. If you had four to six regional labs in this province I predict you could save \$300 million a year. Why? Because of the benefits of using technology. We have a lab system that was designed for the 1960s, not one that's designed for the 1990s. Food services: Every hospital has its own dietary department where we produce this food. Very inefficient way to go: 70% of the cost is labour; only 30% of the cost is food. You could produce food of higher quality at a much lower cost by grouping hospitals together in terms of the

production of food and then sending it to hospitals for reheating. This is done in a lot of other jurisdictions and we're way behind the times. The fact is that the labour disputes arbitration act is actually a barrier to trying to make these changes. We've got no unions in some hospitals; we have CUPE in some hospitals; we have SEIU in others; we have OPSEU or we don't have OPSEU. We have all these different situations. We need to have greater flexibility to go after the efficiency that's potentially out there.

My prediction is you could probably save 5% to 10% in the system just by amalgamating these kinds of services, and that's a good chunk of the way towards 18%. I think we have to remember what the system's here for. It isn't here to produce food; it isn't here to do lab tests; it's here to care for patients. So if you can produce food and you can do lab testing at the cheapest cost while maintaining quality, you can have more nurses and physios and social workers and psychologists to actually provide care to patients.

Hospitals need to be relieved of the restrictions imposed on contracting out work of the bargaining unit and the interest arbitrators should be barred from awarding such provisions in the future. All of our collective agreements have these clauses in them. How did they get there? We didn't negotiate them. The Ontario Hospital Association didn't negotiate them. They were put in there by interest arbitrators, the first one going back to 1979. I've got to tell you, the 1990s are not the 1970s, and we need to have more flexibility to look at different ways of providing these support services.

I'm not suggesting we throw people out on the street; I'm suggesting we treat people fairly. We need to look at early retirement, voluntary severance and the potential for moving people into these new, combined support service entities, but we certainly need an awful lot more flexibility than we have right now. We need to use the resources for patient care, not for inefficient, fragmented support services. They're not inefficient due to any reason for the staff who work in them; the staff who work in them work very hard. The reason for the inefficiency is we're not making maximum use of the technology that is available today.

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So in conclusion, in health care language I want to say that given the enormous debt that this province has, this is a critical emergency. This isn't an elective procedure we're talking about here. I believe that it should be addressed quickly, very quickly, and it needs to be addressed with radical measures. I think this legislation is radical, but I think it's necessary if we're going to protect the public and ensure that they have good access to health care in Ontario.

The Chair: Thank you very much. We've got about five minutes per party for questions, starting with Ms Lankin.

Ms Lankin: Thank you, Mr Closson, for your presentation. I have to say, the first 10 minutes or so of your presentation I agree with your analysis of what's happening out there in the health care system. In fact, it sounded very much almost verbatim like a speech that I gave on

a number of occasions when I was Minister of Health, talking about the 1980s and the budget increasing by 10% as compared to any other measure that you might look and, talking about the fact that we didn't have a system, talking about the autonomy of various parts of the system and their jealous guarding of autonomy. In fact when we introduced legislation on long-term care to create multiservice agencies, we ran right smack dab into that protection of autonomy of agencies, and as I recall it the now Minister of Health was a fierce opponent of that and defended individual groups' autonomy.

It's interesting, though, to hear your next steps in terms of the things you said. Particularly, as I recall it, when I made some of those comments the Ontario Hospital Association was very vociferous in its concerns that the kind of changes we were proposing, the funding restrictions, which at that point in time were sort of flat-lining with some onetime monies, would cause 14,000 layoffs in the system, and there was a lot of bemoaning of the action.

So your position today is refreshing in a sense and I think that the system has moved in terms of its understanding of the need for change and I think that many of the restructuring reports that are coming forward and many of the actions hospitals have taken on their own indicate a willingness to proceed in that direction. Therefore, I'm concerned about some of the powers in here; not the goals of what we're trying to accomplish, but some of the powers that are here.

May I just inform you that the minister's comments this morning about sunsetting provisions had to do with the hospital restructuring commission, not with the powers set out in the act that he accrues to himself. Particularly around voluntary governance—you raised this—the provisions you refer to in terms of directions to close, amalgamate, merge and that sort of thing, but I'm wondering if you're aware that there is a general provision, irrespective of all of those, that stands on its own that says the minister may make any other direction related to a hospital that the minister considers is in the public interest and that the board of the hospital shall ensure that that direction is carried out and implemented, irrespective of any other act, of letters patent, of bylaws, of contracts.

To me, this is incredibly sweeping and undermining of the voluntary governance structure of the public hospitals, with no limitations, no fettering and no provision for sunsetting in the future. I'm wondering if you could comment on that particular aspect.

Mr Closson: I'll repeat, I guess, to some extent what I already said. I think it is important that there be sunsetting on some of the powers in the legislation and my reason for saying that is very much because I think that government can't get involved in the detailed day-to-day running of health systems. It's just too complicated, and the decisions are hard enough to make when you're working at the local level; they're certainly not going to be made well from Queen's Park.

I gave you some examples of the kinds of things that I think need to be included as provisions that need to be sunsetted. I think you'll be hearing more from the OHA

later today in a more comprehensive sense, so I think I'll just leave it at that.

Ms Lankin: With respect to your query for greater powers in the Hospital Labour Disputes Arbitration Act that section isn't directly before us; it's with the other subcommittee that's meeting—in addressing that, I'm interested in the fact that you feel you need legislative change to be able to accomplish amalgamation, for example, of laboratory services or of food services. I am aware of hospitals that have done that. I am aware of the hospital industry labour-management committee a number of years ago, in the late 1980s, having developed guidelines for mergers. It happens all the time. There are provisions for how you merge various local unions. In fact, what I think you're talking about is getting around not amalgamating and merging those services, because that's done every day in this province, but contracting out to private operators outside of the hospital circumstance. Is that the legislative protection and/or freedom that you're looking for?

Mr Closson: I think some of the things that have been done in terms of merging support services have been done on a pretty small scale. It used to be a lot easier. For example, at Sunnybrook we contracted out our laundry service several years ago and, following the collective agreement, we were able to guarantee all employees' positions by using attrition, but there are fewer and fewer support services or support-service positions within our organizations and there's less and less attrition, so it's very difficult to use that mechanism any more.

I think you need to look at every situation differently. I think in the lab arena, there is some advantage to having private sector partnering around labs, because I think the private sector organizations have more experience than the public sector organizations do at moving lab specimens around efficiently.

In the dietary field we've been talking in the Metro area about a 20-hospital group, and we have a private sector partner we've been working with to look at how we could provide food services for 20 hospitals in total. We're talking about major investment capital over time. We're talking about expertise in providing thousands and thousands of meals per day. These are things that none of us has particular expertise in. Our expertise is in health care.

The Chair: Thanks very much. For the government?

Mrs Ecker: Mr Closson, thank you very much for coming, and I think you put the need for restructuring very well in your argument. I think if there's something the last three governments have tried to wrestle with, it's reforming and changing the health care system. Hopefully, this time we might over the next couple of years be able to actually get some of the things done that everybody's been trying to do for many years on this system.

One thing I wanted to ask you to clarify a little bit, I believe you said you had some concerns about the bill's wanting positions to be appointed as part of a human resource plan, which was a recommendation, as I recall, something that had been talked about in the report, Into the 21st Century: Ontario Public Hospitals, which I think

many people thought was an excellent way to go. I just wonder if you could clarify a little bit what your concern was and what you might recommend to replace it. I thought, if I heard you correctly, that you had some concerns about it.

Mr Closson: My understanding as to why it's being put into this legislation is to try and come to grips with the maldistribution of specialist physicians in the province, requiring them to be aligned with a hospital in each case, and therefore, if the government had control over how many specialist physicians could be aligned with each hospital, they'd have control over where the specialists were able to practice.

Whether that's a good idea or not, I don't know, but the mechanism that's being used to make this happen would be very difficult to follow through within the hospital community. At Sunnybrook, where we have about 250 full-time physicians, let's say we have at the moment about eight cardiologists. If three of those cardiologists decided to spend more of their time doing research, that would mean we'd need additional cardiologists. The way I read the legislation, we would have to go back and get approval from the government to be able to change the numbers associated with the plan, and that would be very difficult.

Every time people change their practice at all, you'd have to go back and get approval. People age. We're a trauma program. They reach a certain stage where they don't want to be up all night, so they change their style of practice. Then we have to bring in additional surgeons, orthopaedic surgeons, general surgeons, to take the calls. Going back to the government every time one of these little things changes I think would just be a waste of the government's time and certainly would waste our time.

I think it's better if you look for other mechanisms to deal with the distribution of specialist physicians. I think tying it in to the manpower plans or staffing plans of the hospitals isn't the best way to do it. Instead the government should be looking at contracting with hospitals for serving certain populations and meeting the needs of those populations and giving them the flexibility to actually switch from physicians to possibly alternatives to physicians, and not get so caught up on counting MDs. I think counting MDs is a path that's going to just waste everybody's time.

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Mrs Ecker: Would you be supportive of the direction and the intent of the powers that say that the minister or the ministry can actually contract with a hospital or facility for certain services and outcomes for what they should be providing for the money in a global sense?

Mr Closson: Very much so, and I'd like to see it tied into populations that the hospital is supposed to serve, like taking total responsibility, along with physicians in an integrated group, to serve the full needs of populations for a certain sum of money.

Mrs Caplan: If you added to your concept of the hospital and the doctors in a coordinated, comprehensive plan the community groups as well, you'd have a comprehensive health organization which was funded on the basis of that population and the needs of that population.

Not only would you have my support, but I've told the minister that that's what I think is appropriate reform.

The other thing that would happen would be that you would have an incentive for hospitals and doctors and community organizations to come together to serve that population. I also had a little déjà vu as I listened to the beginning of your remarks, because it's something that we have been advocating, although I believe that most of the powers are there in existing legislation. There need to be a few small changes in order to implement it.

But my sense is that this bill is a bureaucrat's dream. It gives the minister, and thereby the ministry, all the powers to centralize control, as opposed to the kind of partnership model that you've been advocating. While it may allow for a contract-type situation—and I raised in my opening remarks with the minister this morning the view that the manpower plan requirement leads to micromanagement, because it allows the minister to impose a plan on a hospital—it removes any of the level of trust and it also creates huge paperwork, because as you've said, the plans are fluid and they're ever-changing.

The concern I have is the powers in this bill permit micro-management. In fact, as I read the accumulated powers that are there, I am quite fearful that it would block the development of exactly what you want, which is the partnership between the hospitals, the doctors, the community organizations and the development of a CHO, which ultimately might need legislation but, in my view and from my experience, could be accomplished simply by arranging with the ministry alternative funding formulas, and they already have that power right now.

The question I have for you is—and I've heard your comments and taken your advice regarding expenditures in the province over the past few years—what impact do you think the \$5-billion tax cut is having on the expenditure plan of this government? The fact that they are attempting to balance the budget, but not till the year 2001, not reduce the debt, and cutting \$1.3 billion out of hospitals at this time? If they didn't have that \$5-billion tax cut, what do you think could be accomplished?

Mr Closson: I think Ontario has one of the highest tax rates in Canada, if I'm not mistaken, and I think the high tax rates are actually acting as a disincentive for industry to want to invest in this province. So I'm a firm believer that our tax rates do need to be lowered and we need to stimulate the economy and create new jobs.

A lot the jobs in health care are jobs of the past; they're not jobs of the future. We need to stimulate new industries in this province to be able to develop jobs of the future so that we can get people employed. I think all the literature suggests that the best way to achieve health status is by having people employed.

We're going to have go through a bit of rocky phase here, where there'll likely be higher unemployment, but hopefully we're going to be able to stimulate the economy at the same time and create new jobs for people. Personally, I think it needs to be a balanced strategy. I'm not going to debate with you the numbers, because that's not really what I'm here for, but conceptually that's the way I feel.

I'd like to just comment, if I can, on your other comment about CHOs, comprehensive health organizations. Clearly what I'm talking about is something that looks an awful lot like a comprehensive health organization. But we've made basically no progress on comprehensive health organizations in Ontario since 1988, when the first ideas came forward from the Premier's council, and part of the reason for that gets back to everybody wanting to be autonomous. I do believe we need some legislation to break down some of this autonomy and force some major structural changes in the system.

I also, though, agree with you that the funding system is really at the heart of all this, and if we could really focus on changing the funding system for doctors and hospitals and community agencies, we could make progress really quickly.

The Chair: Thank you very much, Mr Closson. We appreciate your attendance here and your involvement in our process.

ONTARIO PHARMACISTS' ASSOCIATION

The Chair: The next group is the Ontario Pharmacists' Association, represented by Gary Sands, Wayne Marigold, David Windross and Barb Stuart.

Good afternoon and welcome to our committee. You have a half-hour of our time to use as you see fit. The questions will begin at the end with the government, so the floor is yours. Obviously I introduced one person who's not here, did I?

Mr David Windross: No, he's here.

Mr Wayne Marigold: My name is Wayne Marigold. I'm the president and chairman of the board of the Ontario Pharmacists' Association. With me are the chair of our public affairs committee, David Windross, to my immediate left; our chief executive officer, Barbara Stuart, to my right; and Gary Sands, our manager of government and public affairs, to my far left.

Today my colleagues and I speak to you on behalf of over 4,500 pharmacists across Ontario who are members of our professional association. Our association, in addition to providing services to our members, strives to enhance the standards of practice in our profession in the interest of pharmacy and the public. We are, at least for the time being, also mandated to negotiate the dispensing fees paid to pharmacists by the Ministry of Health under the Ontario drug benefit plan.

Over the years we have worked cooperatively and diligently with governments, led by all parties, to enhance the quality and cost-effectiveness of pharmaceutical care. We were, therefore, shocked and dismayed, like others who have built close working relationships with the government, particularly the Ministry of Health, by the total lack of consultation on the significant changes proposed to the health care system.

But on a positive note, we are pleased that the government is holding these hearings. We appreciate this opportunity to put forward both our concerns and our suggestions.

At the outset, let me say that we agree wholeheartedly with the need to bring Ontario's spending under control. Governments at all levels simply cannot continue to

spend more than they receive in revenues. Governments can no longer live beyond their means.

But as the government moves forward with its agenda to reduce and control spending, it must ensure that those who truly need assistance continue to have access to the support they require to maintain their health. Essential services must be protected, and quality drug therapy is one of these essential services.

Today the association wishes to address three topics: copayments, deregulation and negotiation of professional fees.

We wish to address these topics with certain principles in mind. Some of these are OPA policies, some are Ministry of Health statements and some come from Premier Mike Harris.

"Quality drug therapy is an essential component of the health care system and the quality of life in Ontario." Ontario Pharmacists' Association.

"Prescription drugs are powerful agents for improving and maintaining health." Ministry of Health, Drug Programs Framework for Reform.

"All Ontarians should have equitable access to drug coverage." Ministry of Health, Drug Programs Framework for Reform.

"Ontarians have told us keeping their health care is their number one priority." Mike Harris.

"We have explicitly ruled out new user fees. However, we recognize that long-term funding stability will require different sources of funding. Our plan includes a new fair share health care levy." In a letter to me from Mike Harris in May 1995.

With these principles in mind, let us examine copayments. The Ontario drug benefit plan and the Trillium drug plan cover about 2.5 million people or 21% of all Ontarians. It is proposed that, effective June 1, 1996, people receiving benefits under the ODB plan will be asked to share in the costs.

Seniors earning less than \$16,000—and couples less than \$24,000—and social assistance recipients will pay a \$2 copayment for each prescription filled. Seniors earning over those amounts will pay the first \$100 in prescription costs each year per person and then the Ontario drug benefit dispensing fee of up to \$6.11 per prescription.

The Trillium drug program, which was established in April 1995 to help people who have high drug expenses in relation to their incomes, will also change. It is proposed that effective April 1, 1996, the program's coverage will be extended by lowering the annual deductible for those earning less than \$20,000 per year. Further, starting June 1, 1996, the Trillium drug program will require a \$2 copayment for each prescription filled.

These proposed revisions will save an estimated \$225 million to protect the program's future, allow government to add new drugs to the formulary and expand the Trillium drug program eligibility.

The OPA does not question the need to control ODB program expenditures and supports the government's desire to protect the program's future. However, we do

question whether or not copayments are the most appropriate method to accomplish these goals. We believe there are better alternatives.

The OPA was not consulted on the changes to the program and therefore has little information on the assumptions and analysis used by the government to reach its decision to institute copayments. However, it is generally acknowledged that copayments are introduced by governments to transfer a part of the cost of prescription drugs to the patient and to reduce overall consumption.

But do copayments work? What are their side effects and long-term implications on patient care?

Many studies have been conducted on the impacts of copayments. These studies have examined claims that copayments reduce drug program expenditures by decreasing utilization, shifting costs to patients, encouraging more appropriate drug utilization and creating more cost-conscious patients who seek lower cost sources or substitutes for their prescription drugs.

While knowledge and research regarding the effects of copayments is improving, much remains to be known. Only a small number of copayment types and beneficiary groups have been evaluated, and few under controlled situations. Therefore, much of the analysis is open to interpretation.

Bearing this in mind, while studies in the US and UK suggest that utilization does decrease when copayments are introduced, recent experience in the province of Quebec suggests that reductions in utilization are temporary and that consumption returns to pre-copayment levels within one year of implementation.

But even if copayments reduce utilization, is this a good thing?

Where utilization decreases, the analysis cannot determine the degree to which appropriate and inappropriate utilization are reduced. However, it is clear that a substantial proportion of decreased utilization occurs among needed medications.

In one US study, the copayments had little effect on the utilization of the discretionary drugs such as sedatives and analgesics, whose withdrawal immediately affects the patient's sense of wellbeing. The largest effect was on drugs such as diuretics used in the treatment of serious but asymptomatic diseases. In addition, while there are no published studies of the effect of copayments on general health quality, they have been associated with some specific adverse health outcomes, particularly among low-income patients.

With respect to the final claim that copayments make patients more cost-conscious, there is no doubt that patients will be more aware of drug therapy costs. However, unless patients are able to make informed decisions based on quality and appropriateness of alternatives, the impact of non-compliance decisions based on cost factors alone may have detrimental impacts on their health.

There is simply not enough hard data and empirical evidence to truly evaluate the effects of copayments except to say in the short term copayments will save

governments money by shifting some of the cost to low-income and seniors patients. But these costs may create a financial barrier significant enough for some people to reduce the use of much-needed medications. Alternatively, the copayments may reduce what they can spend on food or rent. As an example, a senior who may be admitted to the hospital with pneumonia may get an expensive medication while in hospital, get a prescription for it when they leave hospital, and if they have to make a decision based on the costs that they have to pay, may not take the medication, will be readmitted to hospital and further cost the health care system more money.

We cannot afford to experiment on a matter so vital to Ontarians until we know the facts.

Copayments force patients to make decisions on drug therapy and the quality of their health based on their ability to pay rather than the necessity of the prescribed drug therapy. A reduction in patient compliance resulting in further complications may ultimately increase expenditures on physician and hospital services.

There is a great possibility that savings achieved in the drug programs will be more than offset by increases in other areas of health care.

Copayments are at odds with the concept of a drug benefit program designed to ensure that drug therapy is available to all those in need on an equitable basis. While we support the government's desire to protect the future of the drug benefit program, it should not be done at the expense of the health of those who genuinely need assistance. The proposed copayments will create undue burdens and hardships for low-income seniors and social assistance patients.

Copayments are a quick fix which may in the long run do more harm than good.

Copayments will also present significant administrative challenges for pharmacy in the community as well as in hospitals, nursing homes and homes for the aged. Copayments will be difficult to collect and may impact on patients' rights to protection of privacy.

There are other options and solutions. We propose to eliminate the need for copayments by reducing program costs and by asking all Ontarians and ODB and Trillium beneficiaries to pay a fair share.

We are still working on the details of our proposal. However, a general outline is as follows:

First, we would generate funds through a fair share health care levy, as outlined in the Common Sense Revolution.

The Common Sense Revolution states, "In the last decade, user fees and copayments have been rising," and "We looked at these kinds of options, but decided the most effective and fair method was to give the public and health professionals alike a true and full accounting of the costs of health care and ask individuals to pay a fair share of those costs based on income."

The fair share health care levy proposed in the Common Sense Revolution would generate \$400 million for the health care system. A minimal increase in the levy could generate a significant portion of the funds required for the drug benefit programs.

Second, we would impose a fair share drug tax on medications purchased by ODB and Trillium program beneficiaries whose incomes are in excess of \$16,000 per person. This fair share drug tax to be levied on the total prescription cost, and collected at the point of purchase, would replace the \$100 annual deductible and \$6.11 prescription fee payments proposed to be collected from seniors earning more than \$16,000.

Third, we would vigorously pursue cost savings through more efficient and effective management of the programs and quality improvements to address issues of inappropriate prescribing and utilization.

In the report entitled Drug Programs: Framework for Reform, the Ministry of Health in 1994 set out a number of statistics, principles and plans that point the way for reform and major cost savings. Studies report rates of inappropriate prescribing in Ontario of 25% to 40%. Each year, 17,000 people are treated for prescription drug problems, and it is estimated that 20% of all hospital admissions for seniors are related to medication misuse. That's one out of every five seniors.

These concerns are especially important to seniors who, because of age and because they are the largest consumers of pharmaceuticals, have the highest potential for adverse reactions and interactions.

A concerted effort is required to improve appropriate prescribing and utilization. This, combined with the implementation of medication management strategies and pharmaceutical care models that make better use of the professional training, expertise and advice of pharmacists, can have significant short- and long-term cost savings.

We agree with the Ministry of Health that responsible use of prescribed medication involves a partnership between patient, pharmacist and physician. The appropriate use of prescription drugs depends on patients, pharmacists and physicians having the knowledge and information they need. We see a system where better informed patients will use medications wisely and make it easier for physicians and pharmacists to serve them well.

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This can be accomplished through a number of initiatives, some of which include:

Prescribing guidelines, training and information for physicians to ensure that the drugs prescribed are therapeutically appropriate.

Patient education and counselling by pharmacists and physicians to encourage responsible use of prescribed medications.

Use of the professional services of pharmacists to help patients and physicians.

Drug utilization reviews to encourage best drug therapy.

Medication passports to help patients, physicians and pharmacists keep track of all medication dispensed.

Drug information services or hotlines to provide support and information to all parties.

Trial prescriptions to reduce drug wastage.

These are just some of the cost-saving measures that would be introduced quickly and have long-term benefits.

While estimates of cost savings are being developed, the potential benefit is enormous. Trial prescriptions alone that have been successfully implemented in a number of jurisdictions may save tens of millions of dollars in reduced drug wastage.

In conclusion, while copayments might be attractive to government as a short-term way of reducing drug program expenditures by \$225 million, we believe the hardship and adverse impact on the health of the program beneficiaries to be excessive and unnecessary.

Our plan, which is based in principle on the Common Sense Revolution fair share health care plan, presents a fair and reasonable alternative under which everyone will pay their fair share, with no new user fees as promised. Top quality drug therapy and top quality health care will continue to be available to all Ontarians.

It is our position that a new fair share health care levy and drug tax combined with a determined cooperative effort by government and the health professions to reduce costs can generate cost savings equal to or greater than the \$225 million in savings projected through copayments and eliminate the need to implement them.

Now I would like to address the proposed changes to the Prescription Drug Cost Regulation Act. These will remove all restrictions on the price manufacturers can charge pharmacists for drugs to be dispensed to Ontario residents except ODB and Trillium beneficiaries. They will also remove restrictions on the markup charged by pharmacists on those drugs.

Currently, the maximum charge for drugs in the cashpaying, non-ODB market is the sum of the best available price set by the government, a markup set by the government and the pharmacy's usual and customary professional fee.

Under the proposed changes, the government will continue to set the price for a drug product by agreement with the manufacturers for drugs dispensed to ODB and Trillium beneficiaries, but it will eliminate any restrictions on the price the drug manufacturers can charge pharmacists and hospitals for products to be dispensed to non-ODB consumers.

This change will mean that independent pharmacies, chains and hospitals will have to bargain individually with drug manufacturers, and some will get better prices than others.

Similarly, the government will continue to set the markup on the drug costs it pays pharmacies dispensing drugs to ODB and Trillium program beneficiaries. But the proposed changes will remove any restrictions on the markup pharmacies can charge non-ODB consumers.

This sets the stage for wide variations in the amounts paid by individual patients, pharmacies, hospitals and consumers for the same product in different geographic locations. This goes against the principle that all Ontario residents should have equitable access to drug therapy.

While ODB covers about 25% of the population and private insurers cover another 55%, almost 20% of Ontario's citizens, or about 2.5 million people, have no prescription drug plan. The proposed changes will leave these people extremely vulnerable to unmanageable drug cost increases.

Ontario residents in small urban, rural and remote areas of the province, who have access to a limited number of community pharmacists, may face higher markup costs due to the pharmacists' inability to negotiate a reasonable drug product cost.

The proposed deregulation of drug prices and markups will create an uneven playing field for pharmacy and for cash-paying or privately insured non-ODB patients, with little or no overall public benefit. We also worry about the impact on employers and employee benefit programs.

Quality drug therapy is an essential ingredient of the health care system and the quality of life in Ontario. Quality drug therapy can delay or prevent the need for more expensive health services. It is too much a public good to be left totally unregulated.

All Ontarians, and particularly Ontario's most vulnerable residents, must be protected against unmanageable drug expenditures in the same fashion as ODB and Trillium beneficiaries.

It is common sense that all Ontarians should have access to, and receive the benefits of, the drug benefit price that the government will set by agreement with the manufacturer.

Similarly, like ODB and Trillium program beneficiaries, all Ontarians should have the right and obligation to pay only the markup percentages on drug costs set by the government in consultation with pharmacy.

It is our position that government should continue to negotiate and set fair and reasonable prices for drug products and markup percentages on drug costs for all Ontarians.

Now, turning to our third and final point, I would like to talk about the process by which the government proposes to set the professional fee for ODB prescriptions

The maximum professional fee for prescriptions provided through the Ontario drug benefit program is currently subject to negotiation with the Ontario Pharmacists' Association. The proposed changes will eliminate the negotiation process with the OPA. The government will unilaterally set the maximum professional fee for ODB prescriptions by regulation.

But the present government has never negotiated with the OPA under the present legislation. We are therefore disappointed that the government proposes to eliminate the process instead of making it work better for both parties.

The pharmacy profession must have a voice in determining a fair and reasonable professional fee. The negotiation process with the OPA should be streamlined and made more effective, not eliminated.

Pharmacists are an integral part of the health care delivery system in Ontario. The professional fee of pharmacists should reflect their level of professional training and the professional services they are expected to provide. The professional fee should also reflect their role as front-line gatekeepers in the health care system. Their counselling, monitoring and communicating activities required by the pharmaceutical care model being developed by the profession can have a significant impact on

the health of Ontarians and maximize the effectiveness of drug therapy programs.

There are fresh approaches to determining a fair and reasonable fee that can be equitable to the government and the profession, and be in the public interest. It's our position that government must work with the OPA to create an effective and open process to set pharmacists' professional fees in order that the profession may continue to provide quality, cost-effective drug therapy.

This brings us to the end of our presentation. We believe we have put forward reasonable proposals to enable the government to (1) eliminate the proposed copayments through innovative cost reductions and a program where everyone will pay their fair share; (2) continue to protect all Ontario residents from unmanageable increases in their drug therapy costs; and (3) create an effective process for the profession to have a voice in its future and the future of the drug therapy program, through the OPA.

These proposals will not only save money and protect the program's future, but will also improve the quality of health in this province and reduce expenditures on hospital and physician visits and in other areas of health care.

Simply put, these proposals will help to ensure that all Ontarians who need drug therapy will have equitable access to, and receive, the right drug, in the right dosage, at the right price and will understand how, why and when to use it.

In the coming days and weeks we will continue to develop the details of our proposals. We invite and encourage the government, our colleagues in the health care field, seniors, employers and others to work with us to build a quality drug therapy program that is sustainable for the future.

The Chair: Thank you very much. We have time for a quick question, a couple of minutes, starting with the government.

1450

Mrs Johns: Just for the record, the minister met with OPA on September 6; the College of Physicians and Surgeons of Ontario, CPSO, on September 12; the Pharmaceutical Manufacturers Association of Canada, PMAC, on October 2; the Canadian Drug Manufacturers Association, CDMA, on October 12; and the Canadian Association of Chain Drug Stores, CACDS, on November 21.

With your admitted concern about balancing the budget and stretching the health care dollars, can you tell me why you believe, as you stated in the third part of the presentation, that the government should be involved in setting and determining what the pharmaceutical industry is worth, where you talk about working with you to decide on the potential rate, in the last section, section III? That question wasn't very well worded.

Mr Marigold: I'm not sure what you mean by the rate.

Mrs Johns: "But the present government has never negotiated with the OPA under the present legislation. We are, therefore, disappointed that the government proposes to eliminate the process instead of making it

work...for both parties." That's what I'm interested in. Why should the government be involved in that in the first place? Why does the government need to be a liaison to be able to ascertain what you should be charging the public?

Mr Marigold: In the past the negotiation process has been a bit of a problem. We recognize that, but prior to about five or six years ago it seemed to work fairly effectively. We believe that we have a number of issues, excluding the fee, that we can talk to the government about, non-fee issues that will save the program money.

The Chair: Thank you. Mrs Caplan.

Mrs Caplan: Obviously you had a meeting with the minister. Did he or anyone in the ministry share with you the proposals that they have in this legislation? I know that you wrote them offering to consult with them. That's one. Second, the issue that the parliamentary assistant raises is, why should you be involved? The alternative to negotiation is arbitrarily setting the dispensing fee and also the opportunity for pharmacy to give the government advice and suggestions on modification to the plan, and within that context—I mean, there are always tensions around negotiations, but is it fair to say that you have had a reasonably decent relationship in other areas? The third question is that you missed one alternative—I'm putting it all at once because I'm just going to get a chance for one question—and that is, rather than an increase in the fair share health levy, did you consider recommending a reduction in the tax cut of \$5 billion to find the additional resources that are necessary to fund the plan without copayments or user fees?

Mr Marigold: I'll attempt to answer the last question first. We are still reviewing all of the information. Obviously the omnibus bill was rather large. We haven't had a lot of time to review it. In fact, we just found out Friday afternoon that we were presenting today. I guess that answers that part of the question.

The first part of the question, if I can remember it, was whether we've been consulted. We met with Mr Wilson, but it was basically an introductory meeting. There was no reference whatsoever to any of these potential changes. When we left that particular meeting, we wrote to the minister volunteering to be involved in any kind of process to consult, talk about a variety of issues that affected health care—not specifically even the ODB program; health care in general. We felt we had a lot to contribute. We should be involved in these discussions. The response was, "Well, we'll see," type of thing, and we did not, obviously, get any consultation.

The Chair: Thank you very much. Ms Lankin.

Ms Lankin: I too was confused by Mrs Johns's question. She seemed to be asking why did you think the government should be involved in these discussions around the dispensing fee. In fact, what the government is proposing is to cut you out of the discussions and to do it unilaterally. So that was very bizarre or perhaps a lack of understanding of what's actually in the bill.

You touched on a couple of things, and I am particularly concerned about regional pricing, which you mentioned. I think you indicated that, as individual and

independent pharmacies would have to purchase and negotiate their own prices from drug manufacturers, there could be differential pricing. I would suggest also, with all due respect to your members in small urban or rural centres where there perhaps may be more of a monopoly situation of independent pharmacies, that the markup might vary regionally as well. From looking at this, is it likely or is it just a possibility that there are going to be higher drug costs for non-ODB drug patients in rural and small-town areas?

Mr Marigold: I don't think we can answer that completely because, again, that would be speculation on our part as to what may happen, but certainly the distribution costs to pharmacies in smaller areas might be more. There are a number of factors that could affect the local community and what the pharmacist might charge. So certainly it's possible, but it's very hard to speculate on any of the details at this point.

The Chair: Thank you very much. We appreciate your attendance this afternoon and your interest in our process.

Mrs Caplan: Mr Chairman, I mentioned that from time to time I'd like to put a question on the record. Perhaps, while the changeover is coming, I could pose a question that could be answered by the ministry?

The Chair: We're going to have a few minutes after this presentation, because the next presenter cancelled. So did you want to hold it till then?

Mrs Caplan: Sure. Although it did relate to this, I will do that. That's fine.

SOUTH RIVERDALE COMMUNITY HEALTH CENTRE

The Chair: The next group is the South Riverdale Community Health Centre, represented by the executive director, Liz Feltes. Welcome to our committee. You have a half-hour to do with as you see fit. Questions, should you leave some time, will begin with the Liberals. The floor is yours.

Ms Liz Feltes: I doubt if I will need half an hour. I come from a small organization which nevertheless thinks that this is an important piece of legislation that we ought to comment on. South Riverdale Community Health Centre is a community-controlled organization funded by the Ministry of Health. Its role is to provide good primary care and to engage in clinical and other initiatives that promote health.

Bill 26 touches on health care directly, and we will make some comments about that, but its vast scope touches the life and health of Ontario and civic society in very fundamental ways, and we feel we must comment on that too.

The purpose of Bill 26 is clearly stated; it has to do with the government's economic agenda. We agree that reform is needed in various aspects of this public sector and that this government has been given a parliamentary majority which encourages it to make reforms. But we differ on how in a democracy reforms should be made. In our submission, we'll address democratic principles and then go on to some of the specifics of the bill.

The process of the public getting to these hearings was profoundly undemocratic, and that process is symptomatic of Bill 26 itself. Two essential principles of democracy are openness and public debate of issues that affect its citizens.

But it's clear here that the bill gives sweeping powers to the Minister of Health, the Minister of Municipal Affairs, their designates or appointees, or the Lieutenant Governor in Council, and through regulations that require no debate. Public consultation, consultation and negotiation with affected parties, with hospitals, with hospital boards, with doctors, with the Ontario Medical Association, with pharmacists, with municipalities—and that's to name only some of the parties touched on in Bill 26—all are to be set aside, and in most instances the bill makes it clear that there is to be no appeal from the exercise of these powers.

One of the reasons that we as a community health centre want to comment on this is because the principles that we espouse are very much based on community people having a say in the affairs of their community, just as we feel that the people of Ontario should have a say in what is being done in their province.

It appears that the only groups which the minister will commit to discussions with are drug manufacturers and the people invited to submit proposals for establishing independent health facilities. I've had people checking through these documents several times. This government has said it is committed to maintaining health spending and the Canadian health care system. The fact that the drug manufacturers and independent health facilities get preferred treatment in Bill 26 causes us to question that commitment.

1500

In the case of hospital and health matters, the Minister of Health alone is deemed capable of knowing what is "in the public interest" to do. Much of the health system restructuring could be achieved without this recourse to absolute power. Of course, that echoes in the mind with that phrase about absolute power corrupting absolutely. We believe that the government should be as committed to democracy and its necessary safeguards as it is to a fiscal agenda.

Our recommendation here is that any powers given to any of the ministers to bring about restructuring be limited to a carefully specified time frame.

Turning to hospitals and doctors, as the explanatory note to schedule F, part II states: "The minister is given the power to reduce, suspend, withhold or terminate funding to a hospital if the minister considers it in the public interest to do so." This alone should be sufficient to bring about the hospital restructuring that is needed, yet Bill 26 goes on to set up a system where the minister could seize control of hospitals and manage them through a "hospital supervisor" accountable only to him.

This approach undermines the role of volunteer boards of directors and sweeps away the notion of community responsibility and involvement in the public sector.

Further reforms turn all physicians into government workers with no recourse to ministerial decisions. There

are provisions that allow the minister to set quotas on the types of doctors practising and on their ability to move to "oversupplied" areas. The bill allows doctors no recourse through the courts to challenge their loss of right to practice. While we do believe that the number of doctors entering into fee-for-service—that is to say, OHIP—billing practice should be controlled, the methods used in Bill 26 are shocking in their sweeping nature.

What is lacking is public debate, a polling of ideas and selection of the most appropriate approach. What has become of the questions raised in the Common Sense Revolution paper of bringing common sense to health care? For instance: "How do we get health care institutions, caregivers and the communities and people they serve all involved in funding decisions? How do we provide opportunities for health care professionals to share their innovative ideas for better management and accountability?"

The involvement of health care providers and consumers seems to have disappeared from the government's agenda with Bill 26.

Turning to the independent health facilities, others have already remarked on the removal of the clause giving preferential treatment to Canadian and non-profit independent health facilities. This, together with the new subsection 5(1), which permits the Minister of Health to request proposals from one or more persons of his choosing rather than issuing a general request for proposal, makes us very uneasy. It opens up potential conflict-of-interest problems. Why should the government want this particular control?

For those of us interested in protecting the Canada Health Act and the Canadian health care system, this looks like an attempt to bring in more privatization, and quite possibly US-style privatization. The door that is at present ajar would be opened wide to a two-tier health system, in our view. This was not the promise of the Common Sense Revolution.

We therefore recommend that clause 5(1)(a) amending the Independent Health Facilities Act be removed from Bill 26.

On drug benefits, announcements have already been made requiring copayments for medications under the Ontario drug benefit plan, no matter what a person's income. Like many community health centres, we have a very high proportion of poor people among our patients. They are poor because they are ill, and they are ill because they are poor. They've already suffered an enormous drop in income with a 21.6% cut in welfare. They're having difficulty getting enough food, let alone paying for drugs.

Poor people have multiple illnesses and complex problems associated with poverty. Some may have several medications they must renew each month; there could be five or six. They will have to give up food in order to pay the announced ODB fees. This is not a policy designed to get people out of poverty and into jobs; it appears to be designed to mire them further in poverty and ill health.

The proposed subsection 4(4) of the Ontario Drug Benefit Act insists on the interchangeability of prescribed drugs. While we agree with the principle of interchangeability in general, in practice one brand of medication may be effective for some individuals where another is not. This is referred to as the bioavailability of a drug, and has to do with individual body chemistry.

If you are poor and the only medication effective for you is more expensive than its interchangeable cousin, you're going to be caught in a catch-22 situation. You either cannot afford to pay the difference, or you have the problem that the interchangeable drug is going to be ineffective, which means you remain ill and unable to earn a living.

Further in that act that's being discussed, subsection 8(1.2) does allow a physician to appeal directly to the minister in this type of case. But this seems to us to be introducing red tape, and it will be time-consuming and very expensive, given the cost of answering letters to ministers.

We recommend here that as long as a prescription is signed by a doctor with direction for no substitutions, that prescription should be filled without cost to ODB recipients. If particular doctors sign abnormally high numbers of such prescriptions, their practice can be investigated.

The proposed section 22 of the same act does away with the existing power of the minister to regulate drug prices. We believe this contradicts the stated purpose of this bill. We are convinced that this will indirectly cost the province dearly and hinder any economic recovery. We expect that the pharmaceutical manufacturers will benefit, as they have from the provisions of NAFTA, without giving us reduced prices or more jobs. Our expectation is that health benefit plans of all employers will rise as a result. As a result the cost of running the public sector will also increase.

We recommend that the minister continue to control drug prices.

Speaking now of insured services and medically necessary services, the bill makes it possible to prescribe insured services by regulation, not, as previously, in negotiation with the Ontario Medical Association. In effect, this power is given unilaterally to the Minister of Health. He will also be able to establish the conditions and limitations for the insured services and the OHIP fee payable.

We understand from subsection 17.1(5) of the Health Insurance Act that there are to be some incentives in the fee schedule to practise in remote parts of the province. This could be useful, but the same subsection includes so many other variables that we must conclude that the resulting red tape would tie the system up in costly knots for long periods of time.

There should be consultation with physicians and other health care professionals, as well as the general public, about what is insured by OHIP and under what conditions.

The proposed subsection 2(3) and section 9 of the Health Care Accessibility Act introduces the possibility of using regulations to permit a hospital to charge for

insured services. It also allows insured services to be regulated in such a way as to permit hospitals to charge for hospital operating costs such as meals, hotel costs, toilet trays and so on.

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Our recommendation is that subsection 2(3) and section 9 in its entirety be deleted from Bill 26.

Finally, turning to the issue of confidentiality, a great many sections of the bill impose prescribed ways in which the health care sector is to collect information about providers and patients and to make that information available to the Minister of Health. So far as we could determine, the only place where safeguards were imposed was in the amendment to the Health Insurance Act, where the general manager of OHIP is told that he or she "must not identify, or enable a person to identify, a patient."

Why is this phrase not inserted at each point where the bill talks of the Minister of Health gathering and publishing information? We would recommend that the confidentiality of patient records be protected by including that phrase in every place where information is being collected by the minister.

If I might just summarize verbally, as I didn't have time to do it before getting over here, we feel that Bill 26 is just too big; it is not so much an omnibus as a juggernaut. In sweeping up so many issues within itself, it overlooks some very basic issues of fairness and of support to medicare which are very important to the people of Ontario. We feel that the bill ought to be divided up; that health care should be treated separately and dealt with separately, with its own hearings and consultations; that municipal restructuring should be treated similarly; and that possibly the civil service and pension changes could be collected in another section. The rest might then in fact be an omnibus bill on its own.

I thank you for the opportunity to speak.

The Chair: Thank you. We have about four minutes per party for questions, starting with Mr Bartolucci.

Mr Bartolucci: Liz, thank you very much for your excellent presentation. You spoke about many issues that are of concern to the opposition, but in a nutshell and in a very real way, if and when this bill passes, how will life at the South Riverdale Community Health Centre change? Could you just outline that for the committee, please.

Ms Feltes: Obviously, our physicians are going to have difficulty with prescriptions, first and foremost, in knowing just how to work with people who are poor, who are possibly going to have to pay for drugs and who may not be allowed to have the phrase "no substitutions honoured" on their prescription forms. We'll have to be discussing matters with the minister quite frequently, I imagine.

I worry too about quite another sort of issue in terms of running the centre in the current situation. I can't quite tell, from what is being done to physicians, whether, if we were ever to need to lay off a doctor, that person would have billing rights anywhere within Toronto or anywhere at all.

That rebounds on how we work within the community health centre, as regards our doctors in particular.

We have real worries about what are considered "medically necessary" services. There are so many definitions that could change, and when you deal with a population that is generally poor, as we do, these things are of direct importance to us in the way we are able to give good service and good primary care to our clients, and it's just a very big worry sitting there on the horizon. We would like much more clarity and much more consultation before it's put into law.

Mr Bartolucci: You spoke to process, at the beginning. Process is of very great importance to any democracy. If you had the opportunity, as you will right now, to give the government some advice and some direction, how would you tell them to improve the process before passage of this bill?

Ms Feltes: I would go back and ask them to split it up, to give much more time for consultation with some of the interest groups: doctors, the OMA, people like myself. I heard, like the people before me, on Friday afternoon that I was to be here today, and that's a massive piece of legislation to go through. Just open up the process; listen to what you hear. There will still be time to get things done and to have some of the fiscal agenda get going, but you will get much more help with getting that agenda going if you open up the process and get people working with you and not in opposition.

Mr Bartolucci: Your comments are much appreciated.

The Chair: Thank you very much; we appreciate your comments.

I almost forgot you there, Ms Lankin.

Ms Lankin: Never.

The Chair: You wouldn't let me do that, would you?

Ms Lankin: Thank you very much Additionally I

Ms Lankin: Thank you very much. Additionally, I appreciate your presentation. Your comments on process and the desire to see the bill split—if there's one message that I hope gets through to the government members on this committee as we go through this process, it is that even with the public hearings that we're having, we are still rushing this consideration of a huge piece of new public policy touching on a number of different areas, and it would be appropriate to split the bill and to slow down a bit.

The fiscal arguments that you raised in your last comments are ones the government puts forward as to why they need to move so quickly, but I think we could point out that they do have flexibility with respect to the time of the implementation of any kind of tax cut, or whether they even do that, and that would give them the fiscal room to make sure there was appropriate consideration of this.

There's one area you touched on with respect to independent health facilities and the removal of the provision that was a preference for Canadian-owned, not-for-profit organizations. You talked about the Americanization of the system. I'm wondering if you could expand a little bit on what you fear might happen in that area.

Secondly, when we heard from the Association of Ontario Health Centres this morning, Sonny Arrojado made reference to the possibility that community health centres might in fact become independent health facilities, with this statement about all services being delivered through facilities that are licensed. In there there's a huge range of powers for revocation of licences and suspension of licences by the minister without processes of appeal. Could you comment on what that means potentially for primary care being provided through the community health centres?

Ms Feltes: Well, I must say you take me by surprise. I hadn't expected community health centres to be possibly named as independent health facilities. I haven't had a chance to really consider that with the rest of my staff and with my board.

Ms Lankin: This is a suggestion that Sonny made this morning.

Ms Feltes: It's an avenue, but again I would need to go back to the legislation that has been written here, because again, so much of it is hedged about with things the minister can do on his own without actually consulting the parties involved. I think it's a fearful step to just walk into becoming an independent health care facility without knowing really what the parameters are and without somehow thinking, Jeez, they might be revoked or changed without your having much say-so.

Can I return to the business about Americanization or American-style privatization? There are a number of us who have come together in the province and across Canada. I'm thinking of the Canadian Health Coalition in particular here, and recently Ralph Nader came to talk to that coalition. He has made it very clear that there are forces, insurance companies and other forces, in the US who would very much like to have the health care system in Canada changed. They don't particularly like having a model health care system that can be pointed to. I think there are forces like that ready to look at any opportunity they can to undermine the Canadian health care system and to step in and change it.

The Chair: Thank you very much. The government: Mr Clement.

1520

Mr Clement: I sincerely hope we don't have the beginnings of the next Oliver Stone movie in terms of the next conspiracy, but I appreciate your remarks.

I just wanted to go back to some of the text of your document that you've presented to us. Firstly, on the first page you very rightly talked about some of the powers that are quite extraordinary in terms of realigning our hospital system, and I just wanted to make you aware today that the Minister of Health has made it clear that these would sunset after a four-year period, so they would not be on the books for ever and ever, amen.

In terms of your comments regarding the new powers in the act to make subservient the volunteer boards of directors of hospitals, were you aware that under the previous legislation, specifically subsection 9(7), if the Minister of Health, under that legislation, appointed a supervisor, no act of the board or of the hospital would

be valid unless it was approved in writing by the supervisor? That was under the previous legislation. Wouldn't that be considered extraordinary under your definition?

Ms Feltes: I agree that that is similar to what I'd said, but I do think this goes much further with the hospital supervisor who can step in and simply run the hospital.

Mr Clement: I'm sorry. In-

Ms Feltes: Who seems to be able to step right in and run the hospital without reference.

Mr Clement: Yes, I think you're right, they would be stepping in and running the hospital, but that's what they would be doing if they could veto anything that a board would do.

Turning then to this whole issue of the independent health facilities, can you envisage any circumstances based on your experience where it might be a plus for patients, for taxpayers, for Ontarians to have some health facilities that are not necessarily Canadian? Maybe there's some new technology in France or in Thailand that could be very quickly imported to Canada that would be of great use to patients. Is that possible, based on your experience?

Ms Feltes: I'm sure that is a possibility, but my feeling was that it should be imported by Canadian institutions and made use of in that way.

Mr Clement: Sometimes these things have patents and things like that, so it may not be possible.

Finally, in terms of the interchangeability issue of drugs, which I agree with you is of great concern, my understanding is that the government's position is that if the person cannot use the cheaper drug because of medical reasons, the government will pay the difference. If that is in fact the proper interpretation of the bill, would you be happy with that?

Ms Feltes: I would be happy with that. I'm not happy with the process. The process is that the physician has to write to the minister and request specifically that this person not have to use the interchangeable drug, and in my experience of writing to ministers, that takes a long time and it's very costly in terms of the civil service at Oueen's Park.

Mr Clement: Thank you very much for your input. I appreciate it.

The Chair: Thanks for your presentation today. We appreciate your involvement in the process.

The next group is not here, so we'll take your question, Mrs Caplan, and then we'll break for a few minutes until the next group.

Mrs Caplan: I appreciate it. There are two questions. One perhaps research could do, because I think it's more research than the ministry.

Last week in the Legislature, Premier Harris made a statement, and I think he said that the vast majority of Ontarians are not covered by drug plans. He wasn't speaking just about the ODB; he was talking about all drug plans.

The information that we have today that was presented by the Ontario Pharmacists' Association says that, "While ODB covers about 25% of the population and private insurers cover another 55%"—they say "almost" and I'm going to substitute the word "only"—"only 20% of Ontario citizens, who are about 2.5 million people, have no prescription drug plan."

I'd appreciate it if you could look up that reference and see who is correct, and also the context of his response in that I think it was to suggest that because such a large proportion had no plan, therefore market forces would work. Could you just clarify that for me?

Secondly, I guess the question that I would ask, as it relates to the last presenter, of the ministry: Is there anything in this legislation that would preclude a community health centre, or in fact any doctor's office or clinic of any sort, from being declared an independent health facility? The suggestion that a community health centre could be covered caught this woman by surprise. I think we should have clarification from the ministry: Is there anything in here that would preclude that?

Last, I didn't see in the legislation, and I'd like you to point it out to me, where it would permit payment on a no-substitution prescription. Would that be by regulation that you have to get advance approval from the ministry? Perhaps the ministry could provide advice to us on the experience they have had where physicians now have to get advance approval for limited formulary drugs, as to the volume and perhaps the number of people who have to be employed to deal with the idea of getting advance approval from the ministry.

Those are the three questions that I have.

The Chair: Do those two questions of the ministry need some research, and report back tomorrow, or if we reconvened in 20 minutes would you be able to deal with those? No? Tomorrow?

Mr Brett James: Tomorrow.

Mrs Caplan: Tomorrow? Thank you.

The Chair: We will leave it up to you to come back to us. So the questions have been noted.

Mrs Caplan: I appreciate that. And by the way, I understand that these may be difficult questions to gather all the research on. I'd like them as soon as possible, but I would like them before we leave the hearings in Toronto so that they can be addressed to the people who are here. I wouldn't like to see them at 5 o'clock on Friday; Friday morning at the latest, if that's okay. I want to be reasonable. Thanks.

The Chair: All right, we'll take a 15-minute break and reconvene. Hopefully, Mr Strofolino will be here by then. So we'll come back in 15 minutes.

The committee recessed from 1526 to 1551.

The Chair: I think we will proceed.

Ms Lankin: I just wondered if I could raise a procedural question before we continue. I certainly understand how much work the clerk's office must be going through, trying to schedule these participations in the hearings by the public, and I appreciate that. I wanted to raise a concern, however.

We just had a half-hour break which was occasioned by the group that was going to be here this afternoon having combined its presentation with a group this morning. I know, for example, there's a woman here in the audience who just introduced herself to me who called last week to try and get on the list. She was informed that all the spaces were taken, that there wouldn't be much chance of it and that she should just send in something written down the road. She's been sitting here all day, listening.

I'm just wondering what process we have undertaken to try and contact groups that might have been able to come forward and fill that space, or even individuals who had oral presentations and not written presentations who might have been able to come forward and fill that space, rather than having the committee take a break and denying that half-hour to someone to participate.

The Chair: Basically, as it relates to that space, we weren't aware that it was going to be open until 1:30, which was just a couple of hours before it did open up because the man who was supposed to be there presented with Mr Ryan at 1:30. We have tried, as we agreed to in the subcommittee, to fill in blank spaces off the appropriate list. As an example, the space at 6:30 has now been filled in with somebody. It's not an exact science, but we are doing the best we can, if we have an empty space, to go to the list and try to get somebody else to come in even on very short notice.

But we haven't made any provision to ask anybody who's here whether or not they want to make a presentation and we never talked about that in the subcommittee. Maybe it's something we should talk about.

Ms Lankin: Perhaps we could arrange to have that discussion.

The Chair: Yes.

HOSPITAL FOR SICK CHILDREN

The Chair: Our next presenters are from the Hospital for Sick Children, with Mike Strofolino, president and CEO. Good afternoon, folks. Welcome to our committee. You have half an hour to use as you see fit. Any time you leave for questions at the end will be divided evenly among the parties, and the questioning would start with the New Democratic Party. The floor is yours.

Mr Michael Strofolino: First of all, let me introduce those who are with me: Mary Federau, vice-president of the hospital; Alan Goldbloom, vice-president of the hospital; Claudia Anderson, chief of public affairs.

Although you've generously given me 30 minutes for my presentation, I will take far less than that. My comments are brief and should be completed in about 10 minutes or less, and hopefully there will be questions that we can address.

I approach the hearing today as the president of the Hospital for Sick Children, this province's largest and most advanced provider of medical services for children; second, as an advocate for the wellbeing for children, a role Sick Kids has undertaken for the past 120 years; and third, as a world leader of an academic health sciences centre devoted exclusively to the care of children, research and the education of paediatricians who go on to work in this province in more than 40 countries worldwide.

Because of the funding crisis in which this province finds itself, we support what Bill 26 sets out to do: to achieve fiscal savings through public sector restructuring, streamlining and efficiency. Many of my hospital colleagues are finding it difficult to be as bold as we have been in saying this publicly. After all, it means that some hospitals that have served the public well and in good faith will be merged or closed. Hospitals have been efficient as individual institutions but a system-wide consolidation needs to take place. We must find a new way to provide health care services. We must restructure.

Equal, across-the-board funding cuts to all hospitals do not work. Worse than that, such cuts are bringing a valued institution such as Sick Kids, a hospital that provides unique services not available elsewhere in the province, to its knees. If the Hospital for Sick Children must cut or cap services because there isn't enough money to provide them, both children and taxpayers will pay a heavy price. Children will be placed on waiting lists that could imperil their health or they'll be sent to the United States for treatment that would cost Ontario taxpayers more than if it were provided locally.

As we squeeze, the best and brightest physicians and scientists will be wooed away to health care and research centres where the goal remains to be the best and at the leading edge. A hospital like Sick Kids, known internationally as a pre-eminent centre of excellence in the care of children, will lose its position. The results? Our children will be obliged to wait for centres in other countries to export new techniques and technologies to us. They will not receive the state-of-the-art care that is now available.

But here in Metro we have a restructuring plan for children's health services that we believe will provide a wider range of health care services than are available now, closer to where they live at less cost than we're now spending. Success, however, is dependent on three things: (1) restructuring the present system to remove overheard and inefficiencies, consolidating the gains already made by individual hospitals; (2) a reallocation of funding to maintain excellent health care services for children; and (3) developing a health care system for children predicated on health; that is, illness and accident prevention and health promotion.

So we at Sick Kids support restructuring and the provisions—I believe the jargon is to call them "tools"—within Bill 26 that will allow this to occur. At the same time, we have concerns about schedule F, health services restructuring, which allows the government to close and merge any and all hospitals into any configuration without further statutory or regulatory change and without the requirement of public discussion. Hospitals would have no right of hearing or appeal.

Therefore, we recommend:

(1) That a time limit be incorporated into this proposal. Although restructuring will be ongoing and not limited, we believe, to the next year or two, there must be some process for these powers by the minister, and by the ministers of Health in the future, to be assessed or reviewed before renewal or extension.

- (2) There should be some mechanism by which any given hospital and its constituents could respond before actions are taken that will forever change the nature of the hospital. This process has recently occurred in Metro Toronto through the work of the DHC restructuring committee, where we believe significant consultation was accepted.
- (3) If the government intends to appoint a supervisor, a hospital should have fair notice and be given an opportunity to respond in writing to meet with the minister prior to the appointment.
- (4) Finally, we ask that the bill be more specific concerning the role of the Health Services Restructuring Commission: how it will be constituted, how it will function and how long it will be in existence. My understanding is, the minister did introduce a sunset clause this morning and we certainly support that. I believe it's a four-year sunset clause and we are in support of that.

The tools in Bill 26 should be considered as loose-tight controls for short-term improvement, not government micro-management of hospitals. Restructuring is just the beginning of a system-wide approach to health care, where continuous quality improvement and positive change should be the norm and not the exception. A reformed health care system should incorporate incentives that reward excellence, while promoting innovation and creativity. Long-term controls will not succeed in improved performance.

In closing, we strongly commend the government for the courage to make difficult decisions and implement needed changes. We further commend the government recommendation to establish hospital crown foundations. The children in this province who require health care services have benefited in the past century from a partnership of government support, private philanthropy, voluntary governance and dedicated men and women. Restructuring would allow what we've built, which is the envy of the world, to continue on their behalf.

We're open for questions.

The Chair: Thank you. We have about six minutes or so and we start with Ms Lankin.

Ms Lankin: I'm not sure exactly which parts of the health bills it is that you support. I understand in general your support for the restructuring that needs to be done and I agree with you on that.

The concerns that you've raised about limits on powers and the role of the commission to be spelled out in the legislation, those are all the same sorts of concerns that the opposition members have raised, and by and large, with the exception of a couple of I think warranted and necessary amendments in this package, the kind of restructuring that we believe needs to be undertaken—for example, the Metro restructuring report—can be done without such extraordinary powers being given to the minister.

I'm wondering if you have perhaps a more specific answer to which provisions in the bill it is that you support and believe are necessary in order to undertake the restructuring. Mr Strofolino: I think that becomes a difficult question. Certainly I'm not an expert in all of the bill, but I would say that in restructuring, in the history of hospitals and the ability of hospitals to restructure themselves, without sufficient power it would be difficult for the government to implement restructuring. We don't believe necessarily that restructuring will take place unless it's moved and motivated by the government in some way.

Ms Lankin: So the powers to merge, amalgamate etc: I'm extrapolating from your answer, but I would think those are the ones that you support, but you're saying there need to be time limits put on those.

Mr Strofolino: That is correct. 1600

Ms Lankin: The minister didn't table amendments this morning, but he did indicate that he would be providing us with an amendment that would sunset the restructuring commission. But it's clear from his press release, which we were given a copy of—well, the media provided me with a copy of it—that it is only the commission that will be sunsetted, not the powers contained in the act. I think that's an area of an amendment that we would need to pursue through this committee process.

In addition to the powers to merge and amalgamate, or direct merging and amalgamating, there is a provision in here that gives the minister the power to make any other direction to the board of a hospital with respect to any matter in that hospital that the minister believes to be in the public interest—it's very broad and sweeping powers—and it indicates that the hospital board must implement that direction and it must implement it irrespective of any letters of patent of the hospital, the bylaws of the hospital or any other act.

That goes far beyond the simple merging and amalgamation or closure, and it's not clear what all could be caught under that. Have you reviewed that provision? Does that provision give you any cause for concern?

Mr Strofolino: It does give me some concern in the context of micro-managing a hospital. It doesn't give me a concern when it comes to moving the system forward and bringing about change.

Ms Lankin: So perhaps there should be some controls put on that kind of power and what it's used for.

Mr Strofolino: I think they should be defined. I'm not so sure of controls; I don't like "controls" as a word.

Ms Lankin: Definition or criteria or—

Mr Strofolino: Yes.

Ms Lankin: Okay. When you talk about micromanagement of the hospital, there's another area where it talks about hospitals having to have physician resource plans, which I think is a reasonable thing. In that, it suggests that the minister can impose amendments to the plan, any amendments the minister would want. I found that to be a bit startling and perhaps going too far.

I can understand a process of negotiations and approval, but simply the ability to unilaterally impose amendments-have you looked at that and what it might mean for a hospital, particularly like Sick Kids, that has an important academic research role as well?

Mr Strofolino: Again, controls are not what I envision, but clearly the Hospital for Sick Children would indulge in a human resource plan for physicians which would be contingent on our needs, whether it incorporates research, teaching, and patient care. So we would be the ones, I believe, together with our community, in deciding what the needs of the hospital would be and therefore with the human resource requirements of the physicians. I'm not so sure that overriding that particular type of plan makes a lot of sense.

Ms Lankin: You mentioned the need to set out the powers of the restructuring commission in the act, and I agree with you on that. I asked the minister this morning why he didn't do that, and essentially it was to maintain as much flexibility as possible. I'm not sure; I might not have given his answer correctly. It's a long way to remember back.

I'm wondering what you would anticipate being spelled out. What would be helpful? Its relationship to hospitals, to district health council processes, to the other various restructuring initiatives that are under way? What would you be looking for?

Mr Strofolino: Again, as we've stated in our presentation, I believe restructuring is just the beginning; I don't believe it's the end. I think the commission's powers may have to be broader at the initial stages and to ensure that we move forward both on restructuring and continued health reform.

I don't look at this as one point in time. In other words, others may look at this as, once we're done with this, we're back to business as usual. This is the beginning. So therefore, in trying to identify the powers, I don't know what particular powers; I know at the end of the day whatever is going to be needed to be flexible enough to get the job done should be incorporated in those powers.

Ms Lankin: But you did suggest that you believe it should be set out in the act.

Mr Strofolino: I would have more comfort if it was set out in the act.

The Chair: Thank you, Ms Lankin. For the government, Mrs Ecker.

Mrs Ecker: Thank you very much, Mr Strofolino and your group, for coming forward. The Sick Kids hospital has certainly got a reputation which we all are very, very familiar with, whether or not we've been involved in the health care field at all.

One of the things I wanted to ask about was: You have been through, and you've seen many governments go through, trying to get the health care system where we all want it to be, and you've certainly indicated that you support some of the powers, as long as there's appropriate sunset, and we certainly look forward to suggestions that you might have to offer on that.

Just as a quick aside, I do find it slightly interesting that there's concern about the minister's power to order things with hospitals when under the Regulated Health Professions Act, which was supported by all three parties and the last two governments, the minister has the power

to order regulatory colleges to do anything that the minister requires. So it's certainly not a new idea.

But just how quickly do you think restructuring needs to happen? We've all seen how frustrating—I think everybody has wrestled with trying to get it done, and there's a view, from our government anyway, that we believe we need stronger powers to get it done. How fast do you think it should be done or it can be done?

Mr Strofolino: Yesterday. I think it's fair to say that we're beyond the time when it should've been done. We're sort of working from behind the eight ball at this point in time.

Mrs Ecker: The last point: Your hospital has moved into the forefront by establishing an alternative payment plan for your physicians. I wondered how well that was working. I have heard anecdotally from some of the local physicians in my area that they think it has meant—this is their perception—that the doctors at Sick Kids aren't working as hard now because they're having more trouble getting people in because they're not on a fee-for-service basis. I was just interested in how well you thought the new plan was working.

Mr Strofolino: I think it's the only alternative for an academic health science centre, number one, because it certainly values patient care as well as research and academic activities. Without it, this institution can't move forward. It will not be what it has been. Two, our ambulatory activity is significantly up over the five-year period in which it was implemented and our paediatricians are working as hard, if not harder, than in the past.

The misconception within the community, I think, has to do with downloading of other hospitals on to Sick Children through our emergency area. Seventy per cent of our admissions now are emergent versus 30% elective. Two years ago it was 50-50. So you can see that more and more emergent are being shipped down to Sick Kids. So the perception's out there. I think that's a little bit of perhaps I might use the word "jealousy," but certainly I wouldn't say that the plan has caused our physicians to slack off.

If you know the basis of an academic health science centre, they're not there for the money. They could be in other places for the money. Some people may not like that, but the fact is that they could make a lot more money being technicians in other hospitals. They are at an academic health science centre because they wish to conduct research and to provide teaching to students from all over the world. That's not really necessarily the drive, but they do need protected time for those two activities.

Mrs Ecker: How do you see the approach that physician specialists have to have admitting privileges or privileges with hospitals in order to be allowed to continue? Do you think that's a good thing?

Dr Alan Goldbloom: I think that certainly is easier to answer with respect to hospitals like our own, which is a highly specialized hospital. I think the future of teaching hospitals is that virtually all of their staff will be full-time staff associated there. In fact that's been in the spirit of the alternate funding plan, and other such arrangements.

Even the physician human resource plans that have

been talked about very much coincide with our own direction. We've been working on developing a physician human resource plan so that the physician complement of the hospital is part of that hospital's overall strategic plan in achieving whatever goals the hospital has.

It's a little bit more difficult in particularly some of the primary care specialties which, in some situations, may be able to exist out of hospitals. I suspect that there will be a need to deal with some of those on an individual specialty basis.

Mrs Caplan: I just have a couple of very short questions. Excellent presentation, and I think you would not be surprised to know that I agree with much of what you've had to say around the need to restructure. I've been saying that for a number of years, and the importance of alternate funding plans before you can do that. I believe that unless you can secure income, people will not participate in restructuring.

But I do have some concerns, and I share your concerns, around the powers of the minister. My concern is that while he has said that the restructuring commission will be sunset after four years, do you think that any minister will give up all of those powers that he is amassing in this legislation, considering the fact that it does allow the ministry total and complete and absolute control—and I'm using the word deliberately—control over every aspect and facet of the delivery of services? Do you think once a minister has those powers he—or she in the future, whichever—will ever give them up, sunset or not?

Mr Strofolino: Without being facetious, I'm not a prophet so I wouldn't dare look into the future. I think, though, at the end of the day clearly if we don't restructure the system regardless of who has the powers, we will all pay. Frankly, the use of the powers, as they are scoped now, without getting into all of them, may be better served as something in the background than actually to be utilized. In other words, utilizing those powers I think will create more problems than just having those powers.

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Mrs Caplan: I think you're optimistic. For example, when it comes to Sick Children's Hospital, I could foresee the day come when the minister would dictate the volumes that you could have—that is the power that is given in this bill—where if your board were to threaten to put kids on the front lawn if he didn't give them more money, he would say to the board, "Thank you for your service," and send in a supervisor. Think about it; this is possible. Not only that, but the supervisor would take over responsibilities and duties of the administration and direct that which the minister ordered.

The requirement for human resource plans, not only does he require you under this legislation to submit them, even though we know how fluid they are, but he can override them either by reducing your medical staff complement or by requiring an increase in that complement without providing the necessary funding to go along with it or by ordering it to be reduced as a result of a reduction in funding that is arbitrary and that is possible in the legislation.

I am wondering if you have understood the implica-

tions of the powers that he has and how it may affect your hospital and the voluntary governance of your hospital.

Mr Strofolino: I'll go back to my statement again. I believe good management will persevere; I might be optimistic. But, secondly, there's never been a supervisor who has been able to understand and fully manage an institution when he or she walks in. The powers that are conveyed with the minister happen to be one thing. Whether they're capable of managing institutions handson remains to be seen.

I said before, we support the powers with the limitation that micro-management is not to take place. Professionals who are close to the patient, who have a sense of the patient, and decentralized decision-making are the key to the future. Hands-on control, as I said, long-term controls are not in my view the solution; short-term, they are. We have to stop the bleeding, and I think there has to be some way of getting the restructuring moving. I look at it within that context.

Mrs Caplan: I agree with what you're saying about the ministry's inability to micro-manage. I think you're absolutely right. The fear that I have is that the accumulation of all of these powers is not only a slippery slope, it poses a very definite danger of arbitrary measures, and in the name of short-term expediency, my own view is that all of those powers are not necessary even in the short term to give you the effected result.

I'm not saying that there aren't some changes that are needed. But I'm wondering if you've looked at it to say, what is really required and what could we say is not necessary in order to achieve those objectives?

Mr Strofolino: I'm not so sure I can say that at this point, because I'm not so sure what set of circumstances are going to arise during restructuring. Right now we're looking at mergers and consolidations as what I see to be the simple part of restructuring. That's merely consolidating the gains made and combining facilities. The longer-term view on changing health care delivery systems will require a lot more complex thinking and a lot more analysis before we move forward. This is just the initial step.

I don't think I want to venture as to what powers should or should not be, and it becomes a problem for me to say to limit this or limit that. I understand the long-term implications, but at the end of the day the public has a right to accountability, and if this is the way the public is going to hold us accountable, then I'm prepared to go ahead with it.

I don't think we should be afraid of being controlled. I'm not afraid of being controlled. I think if we're managing effectively and rationally, I'm willing to sit with anybody who wants to come in take a look at our practices. I'm putting that in front of the public. I see that as one way of being accountable, not one thing to be afraid of or fearful of.

The Chair: Thank you very much. We appreciate your presentation and your involvement in our process.

COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO The Chair: The next presenter is the College of Physicians and Surgeons of Ontario, Dr Michael Dixon, the registrar, Dr Helen Gordon, the president, and Dr David Walker, the immediate past president. Good afternoon and welcome to our committee. You have one half-hour to use as you see fit. Any time that you leave for questions will be divided equally among the parties, and the questioning would begin with the government. The floor is yours.

Dr Michael Dixon: Thank you, Mr Chair. Good afternoon. With me today is Dr Helen Gordon, the president of the college, and to her left Dr David Walker, the immediate past president. I'm Michael Dixon, the registrar.

First, let me say we appreciate the opportunity to appear before this committee to address some of the issues in Bill 26 that directly affect the mandate of the College of Physicians and Surgeons of Ontario. The mandate of the college, simply put, is to protect the public and to guard the medical profession. In other words, our concern is for the accessibility, availability and quality of medical services.

It has already been noted by many commentators, interest groups and partners in health care that Bill 26 is vast and complex. We share that view and note that we cannot possibly address, in the short time available, all the ramifications of the sections of the legislation that relate to the mandate of the college specifically or, for that matter, to health care generally.

It is the view of the college that the wording of many of the provisions in the bill is unusually broad and vague. The problem with these provisions is that they are written more broadly than we believe they need to be. As a result, future abuses of these new powers are difficult to predict but are certainly entirely possible.

That being said, what we will do in our presentation today is outline briefly what we see as some of the pros and cons of a limited but important number of aspects of the bill.

First and foremost, we believe that the minister must establish an ongoing public process to deal with what we see as the paramount concern of many Ontarians, namely, the accessibility and availability of medical services, particularly in underserviced areas.

We believe the most appropriate way to deal with this long-recognized issue is for the minister to quickly establish a commission on the provision of medical services. This commission should not be an unwieldy, expensive bureaucracy but rather an unpaid, quick-response advisory body with members drawn from those groups who should be partners in health care.

First on that list should be members of the public from the underserviced communities. The commission should also include representatives from this college, and organizations such as the College of Family Physicians, the Ontario Medical Association, the Centre for Health Economics and Policy Analysis, the Institute for Clinical Evaluative Sciences and the Council of Ontario Faculties of Medicine.

This commission should be tasked to define the needs of underserviced areas, to select the individuals to serve

in those areas and, recognizing the urgency of the situation, to submit its best advice to the minister on an ongoing and timely basis.

We don't believe any Minister of Health should act alone to determine either medical necessity or the specific medical needs of various communities, but we do understand the political realities that have resulted in these powers being written into Bill 26.

We believe the minister should make the effort to provide the means, through a commission on the provision of medical services, for various partners with a direct interest in physician distribution to come to the table and be seized with the duty of providing their best advice.

We believe that such a commission can and should find various mechanisms, short of billing numbers, to encourage doctors to locate and stay in underserviced areas. We believe that physicians, like other groups in society, respond better to carrots than to sticks.

Dr Gordon is going to continue with discussion on physician distribution.

Dr Helen Gordon: The recognition of physician distribution as a problem is not, as the committee knows, a new one, nor are some of the possible solutions to it unknown. They include such things as differential fees and various alternatives to the fee-for-service practice.

There are a number of possible incentives that could and should be offered to physicians before the punitive approach of billing numbers, which could be used as a last resort. We're confident that the aforementioned public commission on medical services would be able to produce a broad range of incentives and means of implementing them, and we would be pleased to answer questions in that area after our presentation.

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Attempts to force physicians into underserviced areas with billing numbers will not, we fear, result in the best quality of medicine. No one works well under duress.

Having outlined to you our main recommendation, we'd like to touch briefly now on some other aspects of the legislation and we would like to acknowledge that the college was consulted on some aspects of this bill and some of the recommendations and requests we made in the public interest have been taken into account.

First of all, we've long sought greater access to OHIP information and easier disclosure by the Medical Review Committee to the college itself. As you may know, while the MRC is technically a committee of the college, the majority of its members are appointed by the minister to review cases of allegedly inappropriate billing that is submitted to it by OHIP. The college has been pressing for some time for expanded powers for its inspectors, who are already under a duty of confidentiality, and that too has been addressed. However, we note that the government has also made provision at the same time for its own review process, including appointment of its own inspectors. We wonder about the necessity for, and the advisability of, this parallel authority.

When the Medical Review Committee uses its powers of inspection, it does so for a specific, clearly defined

referral from the general manager of OHIP that has arisen from a documented concern. However, under this bill the government could use its powers of inspection without evidence of a prior concern and with no defined scope to the inquiry.

To carry on with some of our other aspects, I'd turn it over to Dr David Walker.

Dr David Walker: Thank you, Helen. Turning now to some of the ramifications for the independent health facilities program of this bill, the committee is no doubt aware that the college has the legislated mandate under the current IHFA to perform quality assessments and independent health facilities. While Bill 26 makes amendments which broaden the definition of an independent health facility and the services that such facilities might provide, it does not at the same time make provision for the college to carry out what we believe are the necessary quality assessments in those newly designated facilities.

For some time, the college has been recommending changes to the current IHFA and we're pleased to note that some of these have been included in the proposed legislation. These are including uninsured services as part of an expanded IHF program, causing IHFs to cease operations if they've been deemed to be operating unsafely, even if the IHF has launched an appeal; not requiring assessors to give written notice of an impending assessment; and the ability to charge IHFs directly for subsequent reassessments if they continue to fail to comply.

So, to the extent that some elements of Bill 26 are attempts by the government to improve the quality of health care, we welcome them.

We believe that the manner in which Bill 26 eradicates government support for payments to the Canadian Medical Protective Association could reduce the availability and accessibility of important medical services. We are not here to justify or defend the CMPA, nor its alleged \$1-billion surplus. But surely, if the government is going to go to war with the CMPA over the fee issue, the government should at the same time deal with the much more important consideration of the effects on patients that this dispute will have.

We believe that patient care need not have been compromised had the appropriate steps been taken at the time the government announced its intentions regarding CMPA dues. The fallout from the government's withdrawal from CMPA support was predictable, foreseeable and therefore preventable. The fact that nothing has yet been done to alleviate the impact on medical services to the public is, to say the least, unfortunate.

With the removal of the CMPA subsidy, many physicians will simply opt to stop delivering babies. A family practitioner who delivers babies will find his or her CMPA cost has more than doubled to over \$4,000 per annum. The cost to an obstetrician who delivers babies leaps to more than \$23,000 per year. Obstetrical services that were once available in some communities will simply not be there when people need them. The same could be said of vital orthopaedic and neurosurgical services. Michael?

Dr Dixon: Let us summarize by saying that we

welcome some aspects of Bill 26 as they relate to powers of inspection of the college under the auspices of the Medical Review Committee and the independent health facilities program.

We believe, however, that some of the provisions of the legislation are unnecessarily intrusive and we urge the minister to establish a public process to deal with the access to and availability of medical services in all areas of the province. We believe that the process should include an unpaid commission on the provision of medical services and that the commission must provide the minister with its best advice and specific recommendations on solving the medical needs issues of underserviced areas.

Ultimately, the extensive authority granted the Minister of Health by Bill 26 may well not resolve the deep-seated, multifaceted and widespread problems that the proposed legislation attempts to address. It will only put further stresses on an already destabilized health care system.

Therefore, we believe that what is needed in advance of the imposition of such sweeping powers is a concerted effort to find consensus on the solutions. By consensus we do not mean necessarily unanimity. We also believe there should be a clear understanding that if solutions are not forthcoming as a result of consultation the minister will have to resolve the problems by intrusive means.

In closing, we want to thank you for your attention and urge committee members to do what is in the best interests of the public.

The Chair: Thank you. We've left some considerable time for questions, beginning with the government. We have about six minutes each.

Mrs Johns: I'd like to thank you all for coming here today. We appreciate your time and your insightful comments. I just wanted to talk about a couple of issues that you've raised, the first being the commission. It's my understanding that the college has been part of discussions in committees for several years that have wrestled with the issue of underserviced areas. Some of those discussions have come up with reports and others have provided us with no real solutions.

The last government prepared the Scott report, and I'm sure you're familiar with it, which our government is prepared to implement, and we have started to do that as we've proceeded through. Why do you believe we need another group or another study which will be able to solve the problem any better than the documents we have already in our hands?

Dr Dixon: We're not proposing that this be another study. We propose this be an operational committee to achieve the objectives that the government has set. I think what is different now than in the past is that there is a clear determination on the part of this government, and I might say quite appropriately, to deal with this problem. Secondly, there are the means to do it in this legislation. However, I think there are opportunities to do this in a more effective manner and that the college would like to be a party to that, recognizing that if at the end of the day—and a time should be set—that solutions are not forthcoming, then the minister will have to take whatever

action he deems fit in the circumstance. But there is the opportunity for collaboration with the partners in health care now that there's a clear determination and a clear threat of action.

Dr Walker: If I might add to that, the solutions I believe are already there. We now see the will to do something about this. I'm in communication directly where I work with younger physicians, the physicians of tomorrow. They tell me that if they're made to go north they'll go south, but that there are clear incentives which are already recognized that would make them go to places that they're needed to go to. So there are intermediate steps which would require the will of a number of different players in order to achieve what are very worthy objectives, which I certainly applaud and I think most physicians would applaud.

The answers are actually easily available. They're a step short of indenturing physicians which will achieve them.

Mrs Johns: The minister has this power of course in the act but has said that he will not use this power for a period of time to allow doctors, physicians, a number of different people, to come together and give us a different approach than to just freeze billing numbers. Will that not solve the same kind of issue that you're talking about here? Is that time frame not what you're looking for and has the minister not already said he will do that?

Dr Gordon: Perhaps if I could just comment on that. I'd like to comment on two aspects of your question. I think it's important to remember that the solution to physician resource management in a province like Ontario is a very long-term program. Starting with undergraduates to having someone serve a community is more like a 10-to 15-year period, so any solutions that are going to come up are going to need to be consultative at a number of levels. This is not something you can do as a quick fix. Therefore, the advice needs to be formalized in a way that the exchange can happen, that it can go on. There needs to be some way of having that consultation.

If I could just comment on the powers to the minister, one is quite prepared to believe that the current minister might not use these except under the most extreme circumstances, but when one establishes very broad powers in legislation, one has to remember that one doesn't always control that use of power, and once it's established, it's available.

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Mrs Johns: I was just interested in your comments on the CMPA. Coming from an accounting business background and a husband in the insurance business, I am always concerned about actuarial requirements and how funds are set up. It's been drawn to my attention that our fund has grown at a faster rate than in America, that we have \$1 billion in reserves. I'd just like you to comment on the actuarial validity of the CMPA and how it came into existence, why it's there.

Dr Walker: I'm sure just as you and your husband probably wouldn't comment on the diagnosis of one of my patients, I'd hesitate to comment on the actuarial validity of the studies of the actuaries that the CMPA

hires, except to say that my understanding is that they hire the best and that the best actuaries say that's the amount of money they need to pay to the people of Canada who are successful in liabilities against physicians. I don't know whether that's true or not, but it's the best estimate that I have.

I would like to say, however, that if the government, rightly or wrongly, chooses to get out of those subsidies—and I, as a physician, have no objection to that. In fact, I think it's a good thing to get out of. Giving me 24 hours' notice between hearing about it and having to write my cheque for next year was probably not the best planning vehicle. It led me to make decisions rather abruptly that might have been made over a course of time that was a little more productive for the people of Ontario. So I think the time frame is as troubling as anything. I can't comment on the actuarial validity.

Mrs Caplan: Thank you very much for an excellent presentation. There's nothing here that I disagree with, but there are a couple of areas I would like to explore.

On the consultation, you make a point of saying that you were consulted on some of the aspects and areas. Did the minister share with you what in total he was proposing to present, and did you have the opportunity, as a partner, particularly a partner who has the public interest mandate, for the kind of consultation you felt was adequate?

Dr Dixon: No, we did not.

Mrs Caplan: On the issue of CMPA, did you warn the minister? Were you aware? It was out in the press that he was considering it. Did you let him know—I was going to use the word "alert" as opposed to "warn," but I think "warn" is the right word—what might happen if those doctors practising in areas where they were going to see massive fee increases, regardless of the validity of the actuarial studies and all of that, what would happen to patient care? Was he aware of that before the decision was made?

Dr Dixon: I personally communicated with the minister's office. I did not communicate with the minister directly; I could not reach him. But I did make very clear to an official what the college's view was of the implications of this move, not disagreeing with the policy but the way it was being implemented, as Dr Walker says, on very short notice.

The issue is not whether the CMPA is right or wrong; the issue is that obstetricians are faced as to whether they're going to continue having to deliver 100 babies for nothing to make up the incremental cost. That's the issue. That has to be addressed in a variety of different ways.

Mrs Caplan: I agree, and the issue is are patients going to get the care that they need.

I agree, by the way, with the enhanced powers for the Medical Review Committee and the inspectors on behalf of the college. Were you consulted about the minister's intention to be able to appoint his own inspectors and have a parallel process?

Dr Dixon: Yes. We were aware that that was the proposal they had been contemplating for some years. We have spoken against it. We don't think it's necessary or

particularly helpful to have non-medical inspectors seizing medical records and then trying to make some sense out of them and determine whether they should refer them to the Medical Review Committee. If they feel that there's some concern about the physician's billings, they should refer it to the Medical Review Committee. They have expanded under the last government the role of the Medical Review Committee and the support for it. We anticipate that it will be far more effective, particularly with this new legislation, than it has been in the past, so why not use it? Why complicate the matter with another set of inspectors who are going to try to second-guess the qualified medical inspectors?

Mrs Caplan: My last question is for the very excellent proposal that you make of an ongoing administrative body, and the name that you've chosen is fine. As I understand it, there are existing bodies under the acronym of PCCCAR and others where most of the partners are at the table already with the exception perhaps of some public representation. Could that not easily be transformed into the type of body you're suggesting so that there would be the opportunity for the public process rather than the arbitrary nature of the powers the minister is taking unto himself? Is that what you had in mind?

Dr Dixon: The point I would make about PCCCAR and its various subcommittees is that their term of reference is for a longer perspective on the planning for health and human resources over time. What I think we need now is action. We have a government that clearly is determined to deal with the problem. It is seizing unto itself significant powers to achieve that. I think there's a clear will on the part of the various partners to recognize that and to deal with it. What we need is not more long-range planning; it is more short-term implementation and get on with it. We've been talking about health and human resources for as long as I can remember in this province.

Mr Bartolucci: Doctors, any one, the minister this morning spoke of the tools he wanted to develop to manage doctors. You've said that you've had limited discussions with him. What tools did you suggest to him to manage doctors that you do not find in Bill 26?

Dr Walker: I don't believe we suggested any to manage doctors, to be honest. Our mandate is to protect the public, and so we've been advising, when asked, on various issues to do with particularly the Independent Health Facilities Act and other parameters, ways in which the public interest would be served. I think it's really between the OMA and the Minister of Health and the Ministry of Health to manage doctors. We do have concerns, having been asked now and having the opportunity to be here today to express our views about the implications of some of the more extreme powers that have been proposed in this, in that we would firmly believe that some modest powers and some incentives for change could be achieved quite simply. I believe that's the appropriate answer to make.

Mr Bartolucci: Just one other: I'm still bothered that the minister and the ministry would want to appoint its own inspectors. What do you think the underlying reason is for this appointment of its own inspectors?

Dr Dixon: I can only speculate. I think in the past the

minister, and certainly it's been shared by the college, has been frustrated by the slowness of the MRC process, and that was directly related to the inadequacies of the Health Insurance Act, and finally we now see some opportunity for amending that act and giving the necessary authority for the college inspectors and the Medical Review Committee, which are appointed by the minister on the recommendation of the college, to deal with the issues and to deal with them far more expeditiously than in the past. We were frustrated by the delays that were possible under the existing legislation.

At that time, I think the ministry felt that by having its own inspectors, it could do some preliminary reviews and shake out really the ones they wanted to refer to the Medical Review Committee. I personally don't think they can accomplish that, and as I said earlier, if they have concerns, they should simply refer the matters. We now have the capacity to do at least 100 reviews a year and we'll probably be able to increase that as we have the effectiveness of this new legislation.

Ms Lankin: Let me pick up on that point. You had indicated that you knew the ministry was looking at this type of proposal for appointment of their own inspectors over the last number of years, and in fact you're quite right. This is a proposal that's been kicking around on the shelves. It's one which certain people within the bureaucracy, the Ministry of Health, find very attractive, and it has been put forward to a number of ministers, who after extensive consultation with a number of groups, yourself in particular, have rejected that and have understood, or at least have accepted, the argument that the Medical Review Committee, beefing up the role of the Medical Review Committee, and as we see some good aspects of this bill, some of the powers of the inspectors, is the more appropriate way to go.

A lot of concerns are raised around the access to information, the privacy and disclosure of information, the appropriate decision-making of a non-medical review officer and someone within the ministry, and in general the administration of OHIP and some of the decision-making that may go on outside of the Medical Review Committee.

1640

You also raised concern about duplication and parallel effort. Could you tell me from any of your discussions or consultations with the minister, what reasons he has given you for deciding this time to take this long-standing ministry bureaucratic desire and to put it into the legislation? What reasons has he given you for rejecting your very strong cautions against that?

Dr Dixon: I'm not aware of any discussions that have taken place with this minister or preceding ministers in respect to this particular issue. We've been talking about these issues entirely with staff in the ministry and in the OHIP administration.

Ms Lankin: I can certainly inform you that discussions that were taking place made it to my desk, for example, in terms of a previous review of provisions, and in fact those changes didn't make it into the changes that my successor brought forward as a result of policy

decisions that were taken.

But you're indicating that there has been no discussion with you then at the ministerial level with respect to these new inspectors and what their role and relationship would be vis-à-vis the Medical Review Committee.

Dr Dixon: I can say that very confidently in the recent past; I can't say that over the course of 10 years because I simply can't recall.

Ms Lankin: No, I'm talking about this minister.

Dr Dixon: Certainly not with the last couple of ministers.

Ms Lankin: You've also talked about the establishment of a commission on the provision of medical services, and I'm interested, you describe this as a job that needs to get done. We need to have the partnership process there, something where the minister would be exercising these new and very extensive powers he takes on to himself in conjunction with partners that would be out in the field.

It sounds to me a little bit like the rationale the minister gave us with respect to the establishment of the Health Services Restructuring Commission, a commission which he sees being time limited, four years, and there'll be a sunset review clause so it might be sunsetted. Would you approve the addition of a provision for a commission of the provision of medical services within the legislation, to be a vehicle for both provider and public input into the decision-making or the implementation of the powers the minister has taken?

Dr Walker: It's a simple question with many ramifications. I'm not sure I'd say yes or no to that, but certainly the ability of all the parties involved, with some enhanced powers of government to effect the distribution, the retention of physicians and dealing with many other issues for that matter, would be helpful.

At the moment, there are many organizations with long- and short-term goals. There has been no legislative power to make changes. There are, we believe, four or five fairly simple approaches to redistribution of physicians which would solve the problem, particularly along the lines of preferential entry or re-entry to subsequent training, which certainly appeals to those younger colleagues who would be interested in that sort of thing.

That sort of discussion, though, requires the input and the agreement of those who train physicians, those who represent physicians, those communities that need physicians and those who have some expertise in the requirements of communities for physicians. Therefore, we believe if those groupings could be gotten together, we would see some fairly rapid outputs in terms of substantial and meaningful plans to redistribute physicians appropriately.

Ms Lankin: This is more a technical question and I'm actually trying to understand some of the changes in the act in terms of what it means for the working of OHIP, the general manager and his decision-making powers, and the Medical Review Committee and the college. I genuinely don't know the answer to this.

The manager appears to have newer, broader powers to

determine on his own whether or not he will make payment for services rendered, and a number of criteria for which he can reject a payment, one of them being, in his opinion, that it was not medically or therapeutically necessary. While that's subject to review by the Medical Review Committee, I'm not sure how that fits into the scheme we have today. It makes me nervous that the general manager would be making a determination up front about whether something is medically or therapeutically necessary. That seems to me to be something that's more in the purview of the college, with respect to the practice of individual physicians.

Dr Dixon: I agree with your interpretation. That would appear to be the intent of the legislation, to give the general manager that authority. We too are concerned and somewhat puzzled about how he or she might exercise that authority. Presumably, they would rely on their inspectors to provide information which they would then review with medical experts to see whether the services were indicated or not.

That has really been, since 1972, the role of the Medical Review Committee: to determine medical necessity and whether the services were appropriately billed etc. I think the general manager is really trying to prejudge the Medical Review Committee because if he makes a substantial recovery—he would make the recovery—the physician has the right under the legislation to request a referral to the Medical Review Committee to have the matter in essence reviewed by that committee.

I'm not sure what is achieved, because I'm sure any physician who was subjected to a significant recovery would exercise that option. There would be nothing for him or her to lose. The practice has been over the years for the general manager and the medical officers in OHIP to recommend to physicians that they don't think they'll pay for a given service, and if the physician doesn't object then they don't pay for it if it's a matter of some judgement. But certainly the rule has been and the legislation provides currently that if there is no agreement, it has to go to the Medical Review Committee.

I think what is proposed is that there be more involvement of the general manager earlier in the process and I don't see how that's going to work, quite frankly.

The Chair: Thank you very much. We appreciate your attendance here today and being involved in our process.

The committee stands recessed now until 6 o'clock.

The committee recessed from 1647 to 1801.

OLDER WOMEN'S NETWORK

The Chair: It's 6 o'clock. Our first presenters this evening are from the Older Women's Network. Frances Chapkin is the chair. You ladies can have a seat. Oh, and Ethel Meade and Grace Buller. Welcome to our committee. You have half an hour to use as you see fit. Any time you leave at the end for questions will be divided evenly among the three parties, and we would be starting with the Liberal Party. That would be the order of questions. So the floor is yours. Carry on, please.

Ms Frances Chapkin: I'm sorry everybody isn't here,

because what we have to say is very important. Hopefully the presentation will be read by the others who aren't present.

The Older Women's Network of the greater Toronto area works to achieve a caring society in which older women have the opportunity to live in security, with dignity and to realize their potential. OWN is a voice for older women in our changing, diverse Canadian society which challenges agism, sexism and racism. It is an advocacy organization of 400 women which seeks to overcome injustices and inequities in the home, in the workplace and in the larger society. This voluntary group of senior women advocates on issues of concern to seniors and to all generations.

Grace Buller, Ethel Meade and Frances Chapkin, cochairs of this organization, are here today to strongly express our views regarding schedules F, G and H of Bill 26, a bill that significantly alters more than 40 Ontario laws. We are concerned about the extraordinary powers it gives to cabinet, as well as the undemocratic way in which the government has attempted to pass this legislation—without public input or adequate parliamentary debate.

I could add that we only obtained a copy of the bill a few days ago and were informed Friday of today's date for our presentation. We would have preferred not to have prepared this in haste and not just the week before Christmas. But speed and little or no public consultation seem to be the style of the present government. We hope these hearings are not just window dressing and that what we submit to you will be seriously considered.

We shall now present our case as to why the proposed health amendments are harmful to the lives of older women and must be withdrawn. Amendments regarding health should be presented in an independent bill, with due debate and public consultation prior to enactment.

Ethel Meade will address our concerns regarding schedules F and H, Health Services Restructuring; Amendments to the Health Insurance Act and the Health Care Accessibility Act. Then Grace Buller will address our concerns regarding schedule G, dealing with the drug benefit act and prescription drug cost regulation.

Ms Ethel Meade: Without lessening our objection to the manner in which Bill 26 has been introduced and the nature of its sweeping powers, I want to comment particularly on schedule F, entitled Health Services Restructuring, and schedule H, Amendments to the Health Insurance Act and the Health Care Accessibility Act.

Health services restructuring: Older Women's Network has followed with interest and actively participated in consultations with the Metropolitan Toronto District Health Council's hospital restructuring committee. We are aware of the plan produced by that committee after many months of deliberations and consultations with both professionals in the health care delivery system and with interested citizens. The restructuring plan, approved by the district health council and presented to the Minister of Health, includes strong recommendations for the substantial enhancement of community-based care and the increase of long-term-care facilities as a precondition for the closing and merging of hospitals.

We know that the committee has also recommended a

hospital restructuring authority with the power to implement their plan and override, if necessary, the objections of any hospital unwilling to close or merge with another hospital as prescribed. These implementation proposals sounded quite draconian, but they had some justification in the evident need to close some hospitals and fill up others, rather than to continue the expensive operation of all existing hospitals with their hundreds of closed-down beds.

The provisions of Bill 26, schedule F, appear to have been inspired by the DHC's hospital restructuring authority. But Bill 26 is a far cry from that recommendation, which was for a time-limited authority, working at arm's length from the ministry to carry out a specific and long-deliberated plan. Schedule F, on the other hand, proposes giving to the Minister of Health unprecedented, unlimited and wholly arbitrary power over every hospital in the province.

Until now, the Minister of Health has had the power to give financial aid to hospitals under publicly proclaimed regulations. Under the new section 5, any "grant, loan or financial assistance" to hospitals is at the minister's discretion, according to what he deems to be "the public interest." He may pay or not pay, or impose conditions on payments or reduce the rate of payment as he sees fit.

Under the new section 6, the minister may instruct a hospital to cease operating, or two hospitals to merge or any hospital to terminate a specific service or to provide a specific service or to increase or decrease the volume of any specific service. To make sure that the minister's power is adequate to his needs, we have subsection (5) which allows him to make "any other direction related to a hospital" that he considers in the public interest.

The power to appoint one or more persons to investigate and report on the "quality of management and administration of a hospital" and/or the "quality of care and treatment of patients in a hospital" has now been broadened to include "any other matter relating to a hospital" that is deemed to be "in the public interest."

With no indication of any connection between the report of an investigator and the appointment of a supervisor, the new section 9 greatly expands the role of a supervisor appointed by the Lieutenant Governor in Council. Reporting to and carrying out every direction of the minister, the supervisor may now exercise all the powers of a hospital's board or, if it is a corporation, of the corporation, its officers and its members. Ontario hospitals are, under this bill, to exist at the grace and pleasure of the Minister of Health.

Finally, subsection 9.1(1) states that in defining the public interest the minister and the Lieutenant Governor in Council may consider "any matter they regard as relevant." In other words, cabinet will determine what the public interest is in regard to each and every hospital in the province.

Among the examples of what the minister may consider in defining the public interest—though he may consider anything—is the availability of financial resources for the management of the health care system and for the delivery of health care services. We understand clearly that the availability of resources is entirely

a matter of priorities. The Minister of Health may well find less resources available for health care because more are needed in order to cut the income taxes of the well-to-do. Of course he may have, for the moment, more common sense than to do that, but there is no safeguard in Bill 26 against such political decisions.

1810

It is hard to believe that in what we thought was a democratic society a government could propose to arrogate to itself what even the government's friend the Globe and Mail calls "unconstrained power." What have been cited so far are by no means all the powers that are to be vested in the Minister of Health alone, as we will see in looking at schedule H.

With all these powers there is no suggestion that the minister must, in exercising them, seek relevant advice. He might, though the bill does not suggest it, seek advice from such bodies as district health councils, with their call on the volunteer expertise of a variety of health care providers and interested consumers of health care services. He may feel, of course, that he needs no advice—he knows what is good for us. Or he may, in his wisdom, seek what advice he chooses. Plenty of advice will no doubt be available to him from American insurance companies, for example, and other American corporations now profiting from the providing of health care south of the border.

That he may already have heard advice from such sources is suggested by part IV of schedule F, amendments to the Independent Health Facilities Act. These lengthy amendments seem to contemplate considerable expansion of independent facilities licensed to charge a facility fee over and above what they will receive from the government for insured services. A facility fee is defined in the new subsection 1(1) of the act. It means:

- "(a) a charge, fee or payment for...a service or operating cost that,
- "(i) supports, assists and is a necessary adjunct...to an insured service, and
 - "(ii) is not part of the insured service, or
- "(b) a charge, fee or payment for...a service or class of services designated by the minister...."

We used to call this extra-billing. Is this not exactly the kind of arrangement that the federal government has recently declared out of bounds in Alberta?

Disregarding the Canada Health Act, the government clearly intends to license, as it sees fit—in the public interest, of course—independent facilities charging extra fees. The conditions for such licensing are spelled out, including the authority for the minister to request proposals for the establishment of independent facilities. He is not even required to ask for tenders, but may simply send "a request for a proposal to one or more specified persons." This is quoted from amended subsection 5(1). In the amending of subsection 6(3), what has been eliminated is the requirement, in considering proposals, that preference be given to non-profit Canadian persons and organizations.

What we have in schedule F is a greatly enhanced power to close hospitals and a greatly enhanced power to license independent fee-charging facilities. In some

circles this is known as two-tier medicine, though common sense probably forbids the use of this term. All promises by the government to preserve the Canada Health Act ring hollow when one reads what is proposed in Bill 26.

And this direct attack on the principles of the Canada Health Act has been slipped into an omnibus bill that creates three new acts, repeals two acts and amends 44 other acts. We are opposed to both aspects of this attempt to undermine the Canada Health Act: both the arbitrary power to close public hospitals and the equally arbitrary power to invite private American or any other profitmaking corporations to open licensed fee-charging facilities in Ontario.

Amendments to the Health Insurance Act and the Health Care Accessibility Act: Under these amendments, the definition of insured services has been modified in significant ways. Subsection 11.2(1) defines them as "prescribed services of hospitals and health facilities" and "prescribed medically necessary services," but with a new condition: The services have to be rendered under such conditions and limitations as may be prescribed. In other words, the government will be free to determine whether medically necessary services are actually insured services or not.

Even more ominously, subsection (4) states that such services as may be prescribed are insured only if they are provided to insured persons in prescribed age groups. What conditions and limitations the Minister of Health may choose to prescribe no one can guess, but we are bound to wonder if "prescribed age groups" means something like no bypasses after the age of 70, or if you have Alzheimer's, why bother to treat your pneumonia? The possibilities are limitless, and what they suggest is the slippery slope to a final solution of the problem of what is sometimes called the burden of an aging population.

I am not saying that the government had such ideas specifically in mind in drawing up these amendments, but there is nothing in Bill 26 to prohibit such prescriptions. Nor is there any way to know how the very knowledge that such power has been included in the bill will affect the actions of health care providers. Under ever-increasing pressure to cut costs and get patients out of hospitals, will they informally begin to make such value judgements themselves? Will they ask themselves, "Is this old geezer worth saving?" "Should we bother doing anything for that old bag?" We ask, is this provision not a violation of the charter as well as of basic human rights?

The new section 18 of the Health Insurance Act sets forth the conditions under which the general manager may refuse to pay an account submitted by a physician, practitioner or health facility. One of the conditions is that "he or she has reasonable grounds to believe that all or part of the services were not medically or therapeutically necessary."

This provision has more than one implication. A family physician may refer a patient to a specialist because he or she believes the patient may have a serious condition. If the specialist finds that the suspected condition does not exist, is the family physician liable for the specialist's fee?

More threatening, from our point of view, is how this

can affect palliative care—for HIV/AIDS patients, and in fact for all who are dying. Are medical interventions for their comfort therapeutically necessary? Or are they just a frill for which the minister deems there are not enough resources?

We are all the more disturbed by this new stipulation because it appears to be an attempt to modify the concept of medically necessary services. Since this has become one of the theme songs of those who think we can no longer afford the Canada Health Act, we are opposed to it on principle. Whittling down the services that are insured under the Health Act is another route to two-tier medicine. Those who can afford it will begin to buy insurance to cover whatever the Health Act no longer covers. Nothing could please Liberty Mutual more. And nothing could be more harmful to the five principles which have made our health care system the envy of the world.

Two other matters are all we have had time to consider in preparing this section of our presentation. The first is the proposed annulling of the long-established right to privacy of medical records. This is completely unacceptable. The second is the authorizing of an administrative fee of up to \$150 which hospitals may charge to patients. This violates the Health Act, as well as any sense of social justice. Does this government really believe that everybody can raise \$150 if necessary, just like everybody can have a cellular phone in his or her car? There are people in this province who are poor, who may not be able to pay the rent and feed themselves. And there are more such people as a result of actions the government has already taken in the months since it came to power. Now, if they are hospitalized, are they to face an additional burden?

Mr Chairman, while we appreciate the opportunity to appear at this hearing and present our views, we do not find these scanty last-minute hearings adequate for the consideration of such drastic proposals as those contained in schedules F and H. The omnibus bill should be withdrawn and the proposals regarding health presented in an independent bill, subject to full debate in the House and full opportunity for interested citizens and organizations to prepare their views at extended public hearings.

Ms Grace Buller: I'd like to deal with the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act.

Under the proposed amendments, senior citizens and social assistance recipients will be required, as of June 1, 1996, to pay user fees. High-income seniors, defined by the government as those earning over \$16,000 per year, \$24,000 for couples, will pay the first \$100 in prescription costs and, after that, the dispensing fee of \$6.11 for every prescription they have filled during the year. Lowincome seniors—those with less than \$16,000—and social assistance recipients, residents of nursing homes and homes for the aged, will pay a \$2 copayment for each prescription.

The Common Sense Revolution states that "aid for seniors and the disabled will not be cut," and "there will be no new user fees." Bill 26 has broken this promise in its attack on the present Ontario drug benefit program.

User fees restrict accessibility and create a two-tiered health system—one for those who can afford it and one for those who cannot. The most serious problem with user fees is that they will penalize the least healthy and often the poorest in society, for they often discourage people from seeking the help they need. This can only lead to greater costs in the long run, with an increase in hospitalization cases.

Under the proposed amendments, the Minister of Health is given the authority to take price into account in determining whether a drug product is listed as a benefit. In other words, if the medication your doctor thinks you need is too expensive, it can be delisted, and you will have to pay the whole cost as well as the dispensing fee. At the same time, it is provided that there will be no restriction on the markup that the minister pays on drug prices. Drug companies can raise their prices as they choose and the minister can delist as he chooses. It's the patient who pays.

The thrust of these amendments is underscored by the changes to the Prescription Drug Cost Regulation Act and the Drug Interchangeability and Dispensing Fee Act. The amount to be charged for a drug will no longer be regulated. Costs will rise for non-senior consumers and may well increase for the listed drugs for which the government pays, thus diminishing total health care resources. And Ontario will become the only province in Canada that does not regulate drug prices. Further, the government will no longer pay the difference between a brand name and a generic drug, even if the physician has clearly defined reasons for specifying the drug he chooses.

With the reduction of welfare by 21.6%, the possible loss of rent control and the inability of welfare recipients to feed themselves now on their present income, this further erosion in their benefits may be the direct cause of deaths in this province. We call on this government to stop its cruel and inhumane policies of harming the old, the sick, the poor, as well as women and children.

Ms Chapkin: In conclusion, we believe that if the amendments in schedules F, G and H are enacted, they would lead to a user-fee, two-tier health system, one for the rich and one for the poor. Until now, we believed that under the Canada Health Act that would be impossible. We do believe that a number of the proposed amendments are in outright violation of the Canada Health Act.

Other schedules in Bill 26 give permission to municipalities to introduce new taxes and user fees which will add additional financial burdens for older women, particularly those living on fixed incomes. Some 60% of older women living alone are living on guaranteed income supplements: \$11,000 a year.

Maintaining a healthy lifestyle and being able to afford additional medical expenses will be next to impossible for them. Where will these older women end up? Either requiring costly hospitalization, being warehoused in institutions or dying prematurely. We hope the fate of older women now and in the future will not be the one this bill would create.

Bill 26 is an ominous, draconian bill. Its schedules F, G and H would signal the end of a legitimate health care system. It must not be enacted.

Thank you for hearing us. If you have any questions, we're available.

The Chair: Thank you. We have a very short period of time for questions, a minute each.

Mrs Caplan: I'll be very brief. An excellent brief. I'm aware of the important work that you've done and that you continue to do. I'd ask, were you consulted by the minister on any of the implications of this bill as an important consumers' group that represents older women?

Ms Chapkin: No.

Mrs Caplan: There was no consultation at all. Are you aware that the government wanted this bill by now, by the time the House rose, before Christmas?

Ms Chapkin: Yes.

Mrs Caplan: Thank you for coming today. Anybody else?

Mr Curling: I just want to comment that this would be law without any participation. It's an excellent presentation, and the opportunity for you to present this, I hope, is an eye-opener and some common sense will come to them.

Mrs Caplan: Thanks for coming.

Ms Lankin: Let me add my compliments to those of my colleagues for your presentation. It is very thorough. I am impressed with how much you have been able to cover in the short time that was available to you to do the analysis. I found myself again yesterday going through the act finding additional provisions and trying to relate back to the original bills and understand what it was all about.

You've answered Ms Caplan's question that you weren't consulted at all. I guess the next question would be, in the short time we have, what would you like to see happen? You've said that these schedules should not be enacted. I'm asking, I guess, are you looking for amendments or are you suggesting these bills should just not be enacted?

Ms Meade: We're suggesting that the health sections of this bill be presented independently, together, as a health amendment bill of whatever kind and be treated like a normal bill, with debate in the House and with public hearings and so on.

Ms Lankin: And with some time, of course, to understand all the elements of it.

Ms Meade: And of course with some time, right.

Ms Chapkin: That's what the second-last paragraph of the introduction states.

The Chair: A quick question from the government.

Mr Clement: I thank you for the amount of time you've put into your presentation, although I must say for the record that I disagree with almost all of it. But that's what the committee process is all about.

Let me just focus in on the drug benefit plan, because you've said some strong things about that. Every other province in the Dominion of Canada has introduced costsharing for their drug programs. Is there anything special about elderly women or older women in Ontario that should militate against them being under the same regime?

Mrs Caplan: Harris's promise.
Mr Clement: Mrs Caplan, please.

The Chair: Let the ladies to answer the question.

Ms Buller: Every other province in Canada does regulate drug prices. If this bill were implemented, then presumably drug prices would rise dramatically. Therefore it would be very harmful if drug prices rise dramatically.

Mr Clement: Do I have time for a supplementary?

The Chair: No, that uses up all the time. Thank you very much. We appreciate you being involved in our process. Good evening.

SURVIVORS OF MEDICAL ABUSE

The Chair: The next presenter is Sharon Danley, representing Survivors of Medical Abuse. With Sharon is Velma Demerson. Good evening, ladies, and welcome to our committee. You have a half hour to use as you see fit. Any time you allow for questions would start with the New Democratic Party. So the floor is yours.

Ms Sharon Danley: Thank you for the opportunity that was presented by the alternate people to help us come here and speak today. Having just received part of this bill on Saturday and due to the inadequate time constraints, one needs to review this ominous bill properly. We hope you will appreciate any lack of bureaucratic expertise or anything like that in this presentation.

We would also like to state for the record that we are downright appalled over many aspects of the bill that we've been able to scan and are genuinely afraid for the future of Ontario and its peoples.

1830

The proposed measures in this bill encourage cause for massive alarm. Too many wars have been fought, lives given and tears shed to have all that's been achieved offhandedly tossed out in order to support this present government's political state that is just plain hurting people. But to attempt to ram this bill through undermines the democratic process and we condemn it as fodder for more legal abuse of a democracy.

Because our unfunded group hasn't the wherewithal to acquire legal expertise nor the time to even sift and absorb this proposed legislation, I will only respond in layperson fashion, so please bear with me.

One major area of concern for many, many women is the proposal that the Minister of Health would be given the power to "collect, use and disclose personal information for specified purposes and to enter into agreements for the exchange of personal information for specified purposes."

It is obvious to us that much is lost in bureaucracy, financial decision-making, legalizing bills and so on. We need to incorporate a view through other windows when addressing this bill. There are millions of women, girls, grandmothers and many who are disabled, marginalized and elderly who have experienced all kinds of violations just for being women and who also seek therapies of choice to heal themselves.

It is painful, but I will repeat something I presented to this Legislature in November 1993 to the standing committee on social development regarding Bill 100.

Personally, I have experienced a sexual assault by my son's paediatrician and sought redress before the College of Physicians and Surgeons. I was brutalized and revictimized in countless ways and developed several post-traumatic problems as a result. All of this was caused because my personal medical records were disclosed to my perpetrating physician in an attempt to defend himself on insidious, private, unrelated points. I can't calculate the cost to me and my family for this intrusion and betrayal of trust.

There are many women who have experienced this kind of legal and immoral abuse by having their records opened for view under the guise of legal rights. This proposed legislation openly condones continued violence against us. It sends a loud, clear message that women will not only continue to suffer violence, but the Ontario government will put its stamp of approval on it, allowing medical records to be opened by the Minister of Health, who, with much respect, is a bureaucrat not trained in psychiatry or medicine. And once again with respect, I question his office's knowledge on women's issues.

Ladies and gentlemen, you must know how much information is out there to support what I am saying. Anyone with the simplest mind can calculate that violence increases health costs. You are sending double and triple messages in this bill. There is no common sense about it.

We see this tactic as yet another attempt to flame the fires of witchhunts and other forms of fem brutality that have historically been thrust upon us. The fact that a government would even consider such a vile intrusion into the rights of women, and all people for that matter, to have trusted, confidential therapeutic relationships is not only unconscionable, it is terrorism at its worst and against all that democracy and human rights stand for.

On the other side of the coin, this same government proposes to gut the Freedom of Information and Protection of Privacy Act and structure things in such a way that allows it to operate in secrecy, without accountability. This government shows its true colours and its collective misogyny when it considers such wretched legislation. Not only is this blatant dictatorship, it is shameful.

In several sections of this bill we find the theme statement, "if the minister is of the opinion that it is in the public interest to do so." This is dangerous, as he then has the right to do whatever he wants. Where does the minister get such expertise to make enormous decisions without public input, especially when it affects us all on a mass scale? What does "public interest" really mean, in plain language?

Many in our group believe there is far too much drugging of women, and people in general. Let's face it: The multibillion-dollar drug industry has a vested interest, supported by allopathic medicine, to keep Ontarians drugged, and what better way than to define violence against women, inequity, sexual assault, emotional battering and a whole host of other abuses as psychiatric problems that need drugging in order to medicate pain?

God forbid holistic, indigenous spiritual ways, women's right to birth as they wish, and alternate therapies of choice be relied upon for healing and would speak loudly to cutting costs. This would threaten their obscene profits and power over our lives. This is just another way to get rich on the backs of the marginalized, as we see it. Further, we demand to know why these alternative forms of health care aren't recognized under the OHIP system. It certainly makes common sense to millions of us that they should be.

However, we do recognize the need for drugs in other instances. My own son wouldn't be alive today had it not been for specialized medicine and drugs and health care people with a work ethic that today I bow to. My daughter's severe epilepsy relies heavily on drugs and new technologies, but to bill the marginalized under the highly marketed need to bring down the deficit is again an unconscionable act. We need far more time and public hearings and a separate bill on this issue.

This government and the public are concerned with abuse of OHIP. Our group knows of numbers of doctors who while sexually assaulting their patients were collecting from OHIP for services rendered and in many cases were invoicing for services they never rendered. This is clearly doctor fraud. A simple solution, as we see it: Have the patient sign a receipt with the specific health services rendered, and the attending physician, patient and OHIP would all get a copy. This puts power in everyone's pockets.

This government's activities are threatening our health and wellbeing through its policymaking. Surely you can find creative, effective ways to deal with our financial constraints which are much more equitable and humane, rather than rob from the poor to give to the rich. Where is Robin Hood?

Thank you for the opportunity to speak, and we welcome any questions.

The Chair: Thank you. We have about six minutes per party, starting with Ms Lankin.

Ms Lankin: Thank you, Ms Danley, for your presentation. I did follow the hearings on Bill 100 and I remember the contribution that you made on behalf of your organization and admired the bravery it took to share your own personal experiences with the committee.

I understand from listening to your presentation that there is a great deal of concern with respect to the privacy provisions. We've asked this question of the minister a number of times, and you know the Information and Privacy Commissioner has raised concerns.

The minister has said that the provisions he has introduced in at least one section of the act are no more than what occur already with respect to the right of inspectors to look at records in independent health facilities, and yet there are others who argue that there are two or three different sections of the legislation that actually deal with disclosure of information that collectively, put together, represent a real threat and that it's more than the minister would say.

I understand the point you made that as a non-funded volunteer group you haven't had a chance to understand the intricacies of that. I would imagine there are many members of the public who likewise won't have had access to the bill, won't have understood, and would have considerable concerns based on at least what they have read in the papers to date. How has this affected members of your organization that you're aware of? Their response to this bill: What has it meant for them?

Ms Danley: It's created a fear, a very real fear. And a fear that we have, for those of us who have had—thank you—the courage to stand is that women will now go back. They won't say anything; they'll keep closeted again. We know what closeted, secret information does in the wrong hands. If a woman, or anyone, has the ability to deal with her healing in the most gut-level ways, to know that anybody would even look at the record, let alone bring it out or share it with someone else, and how would it be used, sends everyone underground, and that's not good because that supports violence against women.

Ms Lankin: I genuinely believe the minister's intent with respect to these sorts of changes is twofold: one, to provide an opportunity for appropriate investigation of potentially fraudulent situations, which I think we would all support, and secondly, to provide a networked information system which might be able to be contained on the smart card technology and to allow that to be transferred out to an independent agency they contract with to provide the health card, as opposed to doing it inside government. I think that's what it's all about, and I think there are ways in which that could be accommodated, and most people would feel there could be some merit to that kind of approach of consolidated information.

What's missing is all the protection. I know that the commissioner has raised significant concerns—we'll be pursuing that—and I'm hopeful that your presentation will help other members of the committee understand the importance which that issue is to a number of people and how insecure they feel right now.

I'm also interested in your comments about essentially the fiscal situation and the government using the fiscal challenge that faces the government, and I would be the first to agree with them on that point, but using that as the reason for this. I think we on this side see an alternative, which is to ask them not to proceed with their tax cut at this point in time, because we think the size and the depth and the speed of the cuts are being fuelled more by the need to pay for that tax cut than balancing the budget, given that we see in this term of government they won't even balance the budget.

Do you have any thoughts on that as an alternative? And if that was the case, what would you like to see slowed down in terms of the cuts with respect to the sections of the bill in front of us today?

Ms Danley: There certainly have to be more creative ways, and one of the things, as I've said, while we're trying to gather money, is there's an awful lot of fraud going on with OHIP that we know about. Why hasn't anything been made accountable in all of this? We don't understand that. We know that to support these kinds of violence things increases health costs. It will increase things.

If we could have another week or so to talk among ourselves and brainstorm, I'm sure we could come up with more, and we'd be more than happy to make ourselves available at any time, but other than pretty much what we've said in here, I can't think of anything.

Ms Lankin: Were you consulted at all? Ms Danley: Not at all. No, not at all.

I have written to the minister's office two or three times and asked for information about the health professions board. We have some very large, grave concerns about that board and a number of other issues, and what is this government's stand on these whole issues regarding our protection, our health and our wellbeing, especially with our group and the abuses that many of us have incurred through the medical system? How is that going to be remedied? The cost for insurance to doctors for malpractice has risen greatly. Victims don't get any money for any of this, but everybody else seems to be taken care of.

The Chair: We're going to have to go on to the next question. Where are we at? The government.

Mrs Johns: Thank you for coming today, Mrs Danley. I can understand in your presentation the dichotomy you feel between keeping your public records to yourself and the ability to go after doctors for fraud, and those two things come out very strongly in the presentation. We as a government are very concerned about that; hence some of the reasons why we've implemented some of the things we have done in the bill.

I would suspect from listening to you, and not knowing your story—I don't have the past history to be able to go back as Ms Lankin does, but I would suspect that you probably dealt in the past with some kind of a Medical Review Committee to try and ascertain the problems that went on with your case. Did you do that at that particular point?

Ms Danley: Yes.

Mrs Johns: I understand from things I've read that it's a very costly review and it doesn't help very many people, only 100 people at \$22,000 a year. Did you find that with the Medical Review Committee?

Ms Danley: I don't know about that particular information, but when you say "medical review," we've dealt mostly with the College of Physicians and Surgeons, their tribunals, their form of court, and it is really ineffective.

Mrs Johns: Okay. What we have tried very hard to do in this bill, just to bring in the government's perspective, when you're talking about fraud, is to be able to tie physicians who we feel are defrauding the public by having the records opened up—I know there's a problem with those two issues that's a very difficult problem, but sometimes we have to confirm procedures. We've been unable to do that at the level—there's a backup, right now, of three years with the whole process of going through this and trying to get back at doctors, so we're very concerned about that. I appreciate your bringing that up.

You also talked about drugs. I just wanted to see if you felt there was some change in the way we were

going to be allowing people to have drugs, if there was something in the act that you saw that I'm unaware of, by what you're saying in this section.

Ms Danley: I guess again, such a short review, the idea that the marginalized are going to have to put money out—most people who have severe health problems, or a lot of them are on disability pensions, they're impossible pensions to live on for most people, and then to add a fee for the drugs that they're already on, to me that's another unconscionable act. It's so negligible. Why not deal with the drug companies? Again, this is where we have a very strong feeling about alternative forms of therapy and healing and care that aren't being addressed at all. We feel very strongly that many women are drugged far beyond what is necessary.

Mrs Johns: From my standpoint, I believe that copayment will allow us to put 140,000 working-class poor on the Trillium plan; I think that's an advantage and that some people would be happy to help sponsor that to happen.

Can you just talk about receipts and signing them for services—that's a concept we're interested in in the government-and how you would envision that would work.

Ms Danley: I think what bothers me is that when I buy service for anything else, I usually sign some form of receipt stating that I've received what I've paid for. Because OHIP is the middle person or middle management here, it doesn't mean to say the money doesn't come out of my pocket. Well, why isn't there a form where if a doctor's attending to me and gives me X number of treatments or deals with certain things, it is written or somehow on the form and I can say, "Yes, I have received this"?

We know there are many cases where doctors, once they have your health card—and this is not true of all doctors; this is just the ones who are fraudulent—have put people's names in as having attended them when in fact they did not. If you're asked a question about, "Well, you've quite smoking, how's it going?" that can be put in as a counselling cost etc. There's abuse of that within the system because nobody gets to see it.

Why is it that I automatically give my card over when I go in, the nurse in attendance puts it through to OHIP and, as far as I know, nothing else is done? My doctor sees me and that's it; end of day. There isn't any other thing that I deal with in life where I don't sign for something saying I've either received the goods or, yes, this is in good order or whatever. It just astounds me that when we know there's fraud going on, why this kind of activity isn't looked into.

That way the patients know too exactly what they're getting, and I think that's really important. There's no power in any of the patients' hands. You're made to feel like cattle, and the bureaucracies will take care of everything. Well, that adds to the powerlessness that most of us are feeling out there already. It just adds more.

If I were dealing directly with a doctor and there were no OHIP system, he would give me a bill, I would pay for it and the bill would be itemized. So maybe we need to take a bigger look. Mrs Caplan: I just wanted to make a couple of points. I'm really pleased that you're here and that you've had the opportunity to come to committee. I understand the point that you make about the rights of patients or consumers who feel that they have not been well treated, that you have to have access to an impartial body that can help you do that. There's nothing in this bill that would change the existing procedures.

The Medical Review Committee does not deal with individuals; it has to do with concerns about doctors, and the powers of the Medical Review Committee are significantly enhanced, as are the powers of inspectors of the College of Physicians and Surgeons, to deal with potential fraud. The concern we have is that notwithstanding the fact that the minister says there are new powers, there is a new inspector created who reports directly to the general manager of OHIP, who does not have to be a doctor, who can have direct access to patient files and information.

Just for your information, when we asked the Minister of Health today to take those sections out of the bill and put them into a new and separate bill which would also have protection-of-privacy information for patients, as he was requested to do by the personal privacy commissioner, he said that no, he wouldn't do that.

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That's what's happening with this bill. You talk about power; it's all being accumulated in the hands of the Minister of Health and the government. They wanted this bill before Christmas, without having this kind of opportunity across the province for people to come and learn more about the bill.

I know you've had a difficult and frustrating time, and really I don't have any questions for you other than saying how much I appreciate your coming and having the opportunity to tell the committee about your fears. I think that your fears are reflected in a lot of people who don't understand what is in this bill, and I agree with you that there's a lot to be afraid of.

If I had just one question, it's: Do you think it would be easier for people to understand if this bill were subdivided into different components, so you had one that dealt with drugs and one that dealt with hospitals and that kind of thing?

Ms Danley: I do think subdivision is absolutely mandatory. As well, we need for the public to understand better. When it's pushed through like it is, to those of us for whom this isn't our training it's difficult enough, and for those who are still in a survival mode it's all they can do to survive sometimes, let alone try to understand the bureaucracy that's going to affect their lives in a mammoth way.

Mrs Caplan: I've always believed it's important that the public have information and that they feel empowered to be able to come and speak their minds, but when you have a process like this which is so complex, I think it inhibits the opportunity for individuals to come. So I congratulate you for really coming and talking to this important bill.

Ms Danley: Thank you. Can I just have Ms Demerson speak on that last comment?

Ms Velma Demerson: The matter of anyone having access to doctors' records—you say it's going to be private but it seems to me that these days everything goes on the computer and he has a secretary and so forth and it's not going to be private. I don't think it should be done.

Mrs Caplan: The privacy commissioner shares your concern; we share your concern. The only person who doesn't seem to hear it is Minister Wilson.

The Chair: Mr Curling, Mrs Caplan was kind enough to leave you a couple of minutes.

Mr Curling: I think you should know that was an excellent presentation for the short time which you were given. You shouldn't make any apologies at all about your presentation, how it was typed, because even the minister was not even ready when he came. He was three quarters of the way through his presentation before we got any written documentation at all of his speech.

You said you were not consulted. The minister had a presumptuous point, saying that you may be regarded as a special-interest group, because the minister's statement said that the health care system will not be reformed by publishing invitations to special interests for their input, adding their requests and greasing the wheels, with the squeakiest getting the most grease.

It is that kind of arrogance we're talking about, that the participation in the process is being denied and undermined.

Ms Danley: It is very arrogant, especially when it takes a lot of courage for the women I've dealt with to come forward, to even say anything to anyone, let alone speak to government, and we do—our special interest is not just in ourselves but in our daughters, our mothers, our female friends, our co-workers. "Special interest" is special interest in our government, in our province. If that's a special interest, well—

Mr Curling: It's democracy.

Mr Bartolucci: Do you then feel, Ms Danley, that you were cheated in this whole process?

Ms Danley: Yes, I do, and I believe I speak for my colleagues: Cheated in that we're not consulted, and even sometimes if we are I'm not sure we're heard. The problem with that is, then you have to step up and you have to say, "Wait a minute, listen," and what this creates is a basis for violence. It gets people scared, and when people are scared they act out, and when they act out we have real problems.

What is it costing our government with the step-up in security? What's it costing in the lives of children? What's it costing in the emotional health of a lot of women in these situations who are going to have to keep pulling from the health care system year after year because we're continuing to be violated through our legislation?

The Chair: Thank you very much. We appreciate your interest in coming to present to us tonight.

HUMBER MEMORIAL HOSPITAL

The Chair: The next presenter is Mark Rochon from Humber Memorial Hospital. Good evening, Mr Rochon.

Welcome to our committee. You have half an hour to use as you see fit. Questions, should you allow time for them, will begin with the government. The floor is yours, sir.

Mr Mark Rochon: Good evening, Mr Chairman and members of the committee. Thank you for providing me with this opportunity to comment on Bill 26, the Savings and Restructuring Act. As you've said, I'm president and CEO of Humber Memorial Hospital and I've worked in health care management for over 15 years. I've also had the privilege of serving this province on a secondment to the Ministry of Health as assistant deputy minister, institutional health, from January 1994 to March 1995.

Let me begin by stating at the outset that I support the need to correct the province's financial position. In my view, the amount that the province spends on debt service costs is the most significant threat to health care that we face. Given the combination of declining transfer payments from the federal government and a best-case scenario of relatively total government revenues, everincreasing spending on debt servicing will be devastating to all human services. The need to deal with this challenge now is, in my view, self-evident.

With the need to deal with fiscal pressures as a backdrop, let me turn to Bill 26, the Savings and Restructuring Act, introduced on November 29. I will limit my comments this evening to the proposed amendments relating to the Public Hospitals Act, the Ministry of Health Act and legislation concerning labour relations.

First the Public Hospitals Act: My read of the policy objectives behind the proposed amendments to the Public Hospitals Act is to create the legislative and policy levers that the Minister of Health and the Ministry of Health need to restructure the health care system.

Most individual hospitals have responded quite well to the challenges of the last several years. Improved medical technology and practice patterns have reduced the need for inpatient hospitalization. Further, the growth in ambulatory services and more community alternatives to hospitalization have allowed the system to improve efficiency at the micro- or individual-hospital level.

More patients are being treated in fewer beds. By reducing the inpatient capacity and transferring resources to ambulatory or community settings, the hospital sector now provides more services, with approximately 11,000 fewer full-time equivalent positions and 9,000 fewer beds, than four years ago. In my view, this is a good-news story. Doing more with less and doing it better is an objective that the hospital community strives for.

I don't want to leave the impression that the system is perfect, that there are no challenges. On the contrary, we must continue to address important issues such as access to high-priority services, including cardiac surgery, cancer treatment and dialysis. However, we must also recognize that if we're going to be able to address such pressures, the system will have to be open to reallocation of resources.

The pocket of the payer is only so deep, and the system as it stands allocates funds on the basis of history of use rather than need. We can no longer afford to operate a system based upon patterns of previous service

delivery. The needs of Ontarians and the limit to resources will require that the payer, the government, after appropriate consultation, must be able to decide in a timely fashion how to meet the objectives of providing exemplary care to the citizens of Ontario in an affordable fashion.

In my view, the system can be made more efficient and likely more effective if we restructure. Restructuring to date has, as I mentioned earlier, been largely a matter of individual hospitals doing better with the resources they receive. There is, however, a limit to what individual hospitals can continue to do on their own by way of improving efficiencies.

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In addition to the limited opportunities for increased efficiencies that remain within individual hospitals, the hospital system as a whole must adapt to an environment characterized by increasing demand for services, limited resources and overcapacity in terms of plant infrastructure.

Restructuring in the larger context means redesigning the way in which all hospital resources are configured to meet the needs of Ontario as a whole. It means taking advantage of excess capacity to consolidate hospitals. It means consolidating programs so that a minimum critical mass is present to achieve both quality and efficiency goals. It means getting the hospital sector to behave more like an integrated system. It means that the payor, the government, must be more explicit in what it expects from hospitals for the money it transfers.

Hospitals, for the most part, find it extremely difficult to merge, close or transfer services on their own. This is not to say that there are no examples of voluntary consolidations in Ontario; there are, and the individuals involved are to be congratulated for their courage. But hospitals will not normally volunteer to seek out arrangements that compromise their organizational identity. I'm a strong advocate of voluntary governance of hospitals. It has and will serve this province well. However, there are limits to the utility of voluntary governance, particularly when it stands in the way of the best interests of the community.

In my view, the Minister of Health must have the power to, at the end of the day, force system restructuring when voluntary efforts fail. Why? Because we must make the system more affordable and better able to respond to the needs of our growing and aging population. To accomplish this, we must take money from overhead expenses and apply it to aspects of hospital operation that provide direct patient services. All of this must be accomplished in the pursuit of doing more with less and doing it better.

The question at hand is, how should those legislative and policy levers be designed to give the minister the opportunity to do what is necessary to improve accessibility of services and the affordability of the system? I agree with the need for the minister to have the power to make changes to improve the system. However, I believe that some aspects of Bill 26 relating to the Public Hospitals Act warrant reconsideration.

Specifically, subsection 5(2) provides the minister with the power to "impose terms and conditions on grants, loans and financial assistance." As the payor, the minister ought to have the right to impose terms and conditions on grants to hospitals. However, these terms and conditions ought to be tied directly to the ministry's expectations regarding the delivery of services by hospitals. There must be an opportunity for hospitals to negotiate with the ministry over these matters. The right to impose conditions ought to be tied to service expectations on the one hand and payment expectations on the other.

Section 6 provides the minister with the power to issue directions to hospitals to close, amalgamate or alter services. The minister must have the power to issue directions to reconfigure the hospital system, but not to operate the system. The payor must have the clear authority to make decisions relating to the future role of specific providers within the health care system. Given the significance of these powers, it is my view that they should be time-limited; perhaps three years.

This will provide an opportunity for a re-evaluation. It is also my view that the statute should provide the parties—hospitals—a time-limited opportunity to work things out voluntarily. By this I mean that hospitals should be given the opportunity to voluntarily implement restructuring recommendations such as mergers and program transfers within specified time frames. In the absence of evidence that a voluntary arrangement can be attained, the minister would issue a direction.

In section 9, it is proposed that the Lieutenant Governor in Council appoint hospital supervisors. The power to appoint a hospital supervisor has been in place for more than 10 years, and it has been used sparingly. However, the existing legislation provides the hospital board the opportunity to review a report of a hospital investigator that could lead to the appointment of a supervisor and provide its side of the story prior to the appointment. I believe it is important for hospitals to be heard before the minister decides whether a supervisor is required. It provides the minister with an opportunity to make a more informed decision. Perhaps the existing 30-day time frame can be reduced.

Section 10, eliminating the need for the minister's approval of hospital bylaws, is welcome. However 10(1) gives the minister the right to determine the content of the hospitals bylaw. In my view, there may be certain minimum requirements that the minister may, in the public interest, require a hospital bylaw to provide. However, they should be specified and clearly at a minimum.

Let's turn to the Ministry of Health Act for a moment. I support the creation of the Health Services Restructuring Commission. The commission will, in my view, help expedite restructuring in Ontario by providing a group with a mandate to redevelop health services. However, the decisions to merge or close hospitals should not be delegated by the minister to this group, as contemplated by subsection 32(1) of the amendments to the Public Hospitals Act. The commission should be the group that deals with issues of implementation once the direction from the payor, the government, has been set.

I understand that earlier today the minister stated that the commission will be subject to a four-year sunset provision. This is a welcome improvement to allow for re-evaluation. However, as stated earlier, the powers outlined in section 6 should also be subject to similar sunset provisions.

Labour relations: The social contract is scheduled to expire on March 31, 1996. With its expiration, there will be expectations of salary increases. Salary increases will only serve to exacerbate our problems of providing services to Ontarians. Setting out guidelines for contract disputes to be settled at arbitration is welcome. However, I am concerned about its application. Ability to pay may vary from provider to provider. How will this be taken into account? I'm not aware of jurisdictions where guidelines have had the desired effect.

I'm not sure what the answer to the problem is. However, it is significant and must be addressed. Perhaps the government may wish to consider specifying the envelope within which settlements can be awarded.

In summary, in many respects hospitals are public utilities. They provide services that are crucial to a community's growth and development. Decisions about the future of hospitals must be made with the opportunity for the community affected to make its position known to the minister before a decision is taken.

The minister must specify at the onset of restructuring activities how he will ascertain the public interest in given communities. He must specify the process by which his decisions will be informed by the views of patients, families, employees and physicians. Communities must be given an opportunity to participate in matters affecting health services. However, there must be a limit to the debate. At some point, deliberations must come to an end. The combination of the increasing health needs of our citizens, combined with mounting government debt, requires solutions that can be implemented in a timely manner.

Mrs Ecker: Thank you very much, Mr Rochon, for coming and for some very good suggestions. We certainly welcome your comments on the sunset provisions. As you had mentioned, the minister had indicated some willingness to entertain suggestions along those lines, for the commission at least, and you're making some suggestions for further areas as well.

Did I hear you correctly when you said you didn't think the restructuring commission should have the authority to handle closures and mergers of hospitals? Can you elaborate on that? You think the minister should make that decision, as opposed to the arm's-length structure that he tried to put forward?

Mr Rochon: I think the commission should be in the implementation game. In my view, the minister should be making the decision about what hospitals are to merge and close. There will usually be a community process involving the district health council that would come up with a series of recommendations. At that point, the minister should review those recommendations, determine which ones are the significant ones this government can buy, make decisions and then turn it over to the commission to implement.

Given Ontario's history of closing hospitals and merging hospitals, in my view these issues are quite significant and require firm direction from the minister.

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Mrs Ecker: You also said that you thought the payor should be putting expectations on hospitals. How do you think that would be best arrived at in terms of how we should structure something like that?

Mr Rochon: We have some examples of that today. When the payor—the government—decides to provide cardiac services in Ontario, it contracts with hospitals to provide those services. It also does the same thing with dialysis and trauma. As money gets tighter, the need to be clearer about expectations increases. I could see a system whereby hospitals, as providers, and the Ministry of Health or some other body determine the scope of what services should be provided by that hospital and at what price, so that both sides are clear how much money is coming in and what's expected for that money.

Mrs Ecker: Is that something that should be done through the district health council process, much like the Toronto restructuring has been done, or is there some other option?

Mr Rochon: I think that process has to be tied directly with the body that holds the purse-strings.

Mrs Caplan: I appreciate your representations before the committee. It's well-thought-out, and obviously the experience you had within the ministry was helpful in the preparation. A lot of people are having some difficulty in understanding the intricacies and complexities of this legislation, and it's helpful to have someone with your experience come forward.

You've been very clear on a couple of things. I just wanted to point out to you that in the news release today, the minister was very clear when talking about the restructuring commission that's going to be established under this legislation. He says: "The commission needs the tools to be able to do its work. I want to be very clear that the powers will be given to the commission, not to me."

As I understand that, what the minister is attempting to do is distance himself from the decision-making, actually not make the decisions, and that this commission will be far more than implementation. If my interpretation of that is correct, can I understand that you don't support that? You believe the minister should make the decision and that the commission should be strictly implementation?

Mr Rochon: Correct.

Mrs Caplan: The second point, and I thought you raised the point very well, was the size of the debt and the debt service costs as a result. Since this legislation is referring to fiscal savings, one would think it was the goal of the government to reduce the debt, stabilize the debt. Are you aware, Mark, that under this government's plan, the debt will not be reduced over the next five years? In fact, they do not get to a stable situation on the debt—what I'm saying and what that means is that the debt continues to rise, and that's primarily because of the \$5-billion tax cut promise. Debt servicing costs will also continue to rise because they're borrowing more and

more. All this pain we're going through isn't having the desired effect of stabilizing the debt. Are you aware of that?

Mr Rochon: My understanding is that there are two sides to the argument; that one side is aimed at reducing the tax burden on Ontarians and the second side is aimed at reducing the size of the operating deficit and debt. Reducing debt takes a long time, but my view is that these measures are aimed, at least in the first instance, at reducing the operating deficit from year to year, and that's where I see it paying off.

Mrs Caplan: The actual total deficit isn't reduced until the year 2001. It is reduced, but it doesn't get to zero until March 2001. It's at that point that the debt would be stabilized, and that's after the next election. People who say, "We have to do this because we have to deal with the debt, quickly deal with out deficit," are being fooled, is the word I would use.

I do have one other question. You were very clear and used the words "after consultation"; in other words, you believe the minister should have some powers to take action after consultation. Have you found anything in this legislation that requires the minister to have any kind of consultation process before decision-making?

Mr Rochon: No, I have not. But I-

Mrs Caplan: Would you recommend that it might be included?

Mr Rochon: Yes. My view is that consultation adds to the decision-making, makes it better. I also understand that legislation is drafted in a way to make it clear and make it less subject to interpretation, so you make decisions in terms of what you put into legislation.

Mr Bartolucci: I'd like to get back to your restructuring committee model. Could you just expand on what type of a relationship your model would have with regard to the DHCs? What type of a relationship?

Mr Rochon: I think it would have to have some sort of an opportunity to communicate and to debate with the district health council, but in my view, the restructuring commission would report directly to the minister. That would be the relationship. So the relationship with the district health council would be one of perhaps seeking advice or obtaining some understanding from the district health council about its recommendations and so forth. But the accountability relationship would be between the commission and the minister.

Mr Bartolucci: And that it would have no power at all in closing or merging hospitals?

Mr Rochon: Those decisions would be made by the minister. It would then be up to the restructuring commission to implement those decisions.

Ms Lankin: Mr Rochon, thank you for your presentation. I should tell you that you're the third hospital CEO who's been here today and your presentations are remarkably similar in terms of the concerns that have been raised and in terms of parts of the act that you are supporting. You have a couple of additional points that you've raised that I'm quite interested in and Mrs Caplan just spoke to one of them, that being a requirement for some form of consultation prior to decision-making.

I think that many of us understand the need for health system restructuring, not just hospital restructuring that you were referring to, but broader health system restructuring, and that, at some point in time, decisions have to be taken. It's arguable in my mind whether or not those powers exist already but, having said that, if you are to take more powers on to yourself as a minister they should be with respect to decisions at the end of the process, and I think that's the point you were making.

Could you envision amendments, or would you be supportive of us working at least, perhaps with a group of you and through the OHA, on amendments that would set out some process for requirement of consultation prior to the minister exercising the decision-making powers around closures and mergers of hospitals, for example?

Mr Rochon: I think that's a good idea. I don't know if it's required to be in the statute, for example, but certainly there ought to be a clear process, sort of a minimum requirement for consultation before decisions as significant as closing a hospital are taken. But on the other hand, we have to make sure that these processes don't take forever. They have to be time-limited and they have to come to an end.

Ms Lankin: The other thing that's interesting is, you talked about government, the minister having the ability to impose conditions on grants and you're saying essentially there's a flip side to that and a responsibility for the ministry to be clear with hospitals about what the expectations are.

That kind of partnership and contractor negotiations about how things get done is an important part of how the system works today in the way in which we've seen these issues unfold over the last few years. Again, you're the third hospital CEO who's come forward and said: "This is necessary. We have to restructure. We have to close. We have to merge." But all of you think that none of the rest of your colleagues believe that nor would they be cooperative in helping to achieve that.

Windsor, for example, did go through a process, did arrive at a decision, had a commitment of money to be reinvested into the community because it was a health system restructuring, not just hospital, and a requirement for some capital investment to facilitate that. That plan's there and it's viable, but the commitment for the capital investment and the reinvestment in the community has gone and therefore the willingness of the hospitals and the community that were involved is a bit shaky at this point in time to proceed along that line.

How would this act help in that situation? Because what I see would happen is the minister would certainly have the right to go in and say: "Two of your hospitals must close. Two must merge." This is what we end up with, but your health system hasn't been restructured because the government's part of that contract, that partnership, has just been pulled out from underneath the community.

Mr Rochon: You ask a very complicated question because, in part, what we're doing is talking about a scenario that occurred under one process and trying to superimpose a contemplated process on to it. I guess how I would see it unfolding under what's contemplated is

that the minister, if we were starting from square one, would ask for a report, some form of recommendation, and then, having heard what the recommendations are, having given the community an opportunity to debate, would be put in the position of having to decide that certain things have to happen in that community: mergers and closures.

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Ms Lankin: Let me ask you something perhaps more relevant about Metro, because you would, both from your time in the ministry and from your position, have a sense of the Metro restructuring report.

The recommendations of the community, after considerable consultation and study and a review of the report and now further amendments, are predicated on an understanding of an ability to invest in community where there will be gaps created by the restructuring of hospitals. If there isn't any relationship between the planning process, the consultation process and the end decisionmaking process of the minister set out, how can we be assured with the Metro report, for example, where recommendations are contingent upon other things happening and timing and phasing so that patient care is kept paramount, that that is even taken into account if the powers here are so stark and so direct, to simply merge and close hospitals based on, from what I hear from the minister, excess capacity of physical space only, not taking into account all these other issues?

Mr Rochon: My view is that those issues would be taken into account. It's not just a one-dimensional problem, it's not just a matter of closing hospitals, and the recommendations in Metropolitan Toronto deal with the need to reinvest in the community. If you don't reinvest in the community, your health system falls apart. The minister has accountability for the health system, so in my view he would have to consider what's needed by way of community and other investments to make hospital restructuring work, hopefully paying off by way of improved services and lower cost.

The Chair: Thank you very much, Mr Rochon. We appreciate your attendance here tonight and your involvement in our process. Have a good evening.

ONTARIO HOSPITAL ASSOCIATION

The Chair: The next presentation is from the Ontario Hospital Association. Representing them are David Martin, the president; Ron Sapsford, the chief operating officer; and Carolyn Shushelski, senior legal counsel. The floor is yours.

Mr David Martin: Thank you very much, Mr Chairman. As you said, we're here representing the Ontario Hospital Association. Much of what we are about to say has been discussed with the hospitals in the province and I think it's generally supported. We are very grateful that we have the opportunity to present our comments to this multi-faceted group, and I hope we can be of some help to you in your deliberations.

As I'm sure is everyone who's presenting to your committee, we are concerned about the magnitude of the changes being made in the legislation. This is unprecedented and needs a great deal of thought. Just to give you a little of my background, I've been in hospital manage-

ment now for about 35 years. I was happily retired as the president of the Hospital for Sick Children. Because of some of the problems that the OHA has encountered, I was entired back for—

Ms Lankin: Pressed into duty.

Mr Martin: Yes, that's probably the good way to put it. We are, I think, making some progress.

There are certainly some sections of this act that concern the Ontario Hospital Association and the hospitals it represents. At the same time, we recognize the need for legislation to help with the restructuring of our health system. There is no question that as the legislation sits today it would be impossible to restructure our health system, as was encountered in the Doctors' Hospital situation many years ago. At the present time, and as the minister has said, he does not have the power to close a hospital. There is no question that if we are going to maintain a balanced, healthy health system in the province, it has to come about by a number of changes, which include restructuring our health system. So legislation is necessary.

We have had some interesting discussions with the minister and presented some of our views. I would say, from what we heard this morning, some of these have not been addressed, and that's what we would like to talk to you about tonight. I'm sure some of this will be duplication of what you've already heard—you've been sitting here since 9 o'clock this morning—and so all of this is not going to be new news.

One of the problems we see is that the legislation, as it's drafted at the present time, in the long term would not support the voluntary hospital system that we presently have. I think there's need for immediate powers for the government, but in the long term that could be very detrimental and could be misused in terms of maintaining a balance in our system between the voluntary hospital system that we have been so successful with over the years, and that power has to be balanced between government and our hospital boards in our communities. That's, I think, the major issue.

What we're mainly concerned about is that there be a sunset, and I know from listening to the previous comments that this has already been brought to you. From the OHA standpoint, there has to be a sunset to this legislation, and the announcement this morning did not cover that. Sunsetting the powers of the commission does not sunset the legislation, and that's the important issue: that after this restructuring is done—and we all concede that there's a need for this kind of legislation in the short term—in the long term, this legislation must go off the books. Then, as we address the situation maybe four or five years down the road and we've accomplished what we set out to do, the need for legislation at that time must be reconsidered. The opposition at that time should make a decision as to what's necessary for the circumstances as they exist. That, to us, is the most important part of this whole thing. So that's one thing.

The second thing is around delegation of authority. The bill proposes that the powers of closure and amalgamation "and any other matters related to a hospital" may

be delegated by the minister "to any person or body," and we think that's very dangerous, because you can't conclude what might happen around that kind of power and it removes the accountability from the minister for major, major changes that are going to take place. So we feel that the powers must not be delegated and that the minister must make the decisions and refer approved plans to the commission for implementation.

The reason for that is, if we're not careful we'll set up a new commission, the government will delegate all the powers, and then we'll have the same lobbying and the same problems that you're facing as opposition and government—the new implementation group will be facing exactly those same things and trying to make new decisions and revising what, in the Toronto scene, is a two-year program to try to come up with recommendations. So I think that what the commission should be doing is implementing the decisions made by the minister, and that that power should not be delegated to start to play with the plans that have been carefully thought out by the district health councils throughout the province. That's the second issue.

The other issue is around due process, and we have agreed that the district health council process is the proper way to go about restructuring. So it's important at the same time that the hospitals and the communities have an opportunity to say what they think and to try to come to a decision around the district health council process. It's at that point that hospitals must be assured that they would have input, and the community must have input, into that process. Once it gets passed and approved by the district health council, then it's into the minister's hands, and the minister must then make the decisions around those issues and then delegate it back to the restructuring committee. So we want to make sure that hospitals have their say but at the appropriate time in the process, which is at the DHC level.

The next issue we're concerned about is the role of the supervisor. Elinor, you may remember, I was the first CEO appointed to go into Toronto East General when the Conservative government at that time passed legislation to give them the power to appoint a supervisor over the board. That was met with tremendous resistance at that time by the hospital community, and yet I think it worked very well. It has been used very judiciously by all parties; it has not been abused. It was very helpful in sorting out the problems of Toronto East General and has been used a couple of times since.

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What we're concerned about now is that the supervisor can be appointed without any reference to cabinet or to anyone, and for purposes very much broadened as compared to before. It was originally set up to deal with the problems of an individual hospital, and the government could make a decision: "This hospital is out of control. We must do something." Now a supervisor can be appointed because of problems in funding, or whatever, in the health system. So it may not relate to a problem with the individual hospital at all, and the hospital has no right under the legislation to discuss the issue prior to the supervisor being appointed. Under the

present legislation, the hospital has a month in which to negotiate and discuss with the minister the reasons for appointing the supervisor, to see whether there can be changes made that would maybe obviate the need for a supervisor. That doesn't exist in the new legislation. We think that's a problem.

I think those are the major issues that I had to discuss with you. Ron Sapsford is now going to continue with a few other issues and then we can get into question period.

Mr Ron Sapsford: Our next set of comments is on the Health Services Restructuring Commission itself. The OHA is concerned about the current lack of information about the specific mandate of the commission as it's currently defined in the statute. Given that much of the mandate will be defined by regulation, the OHA is quite anxious to have some ability to advise the government and to have some input into the formulation of those regulations.

In general, however, as we noted earlier, we believe that the commission's role should be to implement the plans developed by DHCs or voluntarily by hospitals, as the case may be, and approved by the minister. The commission must have some flexibility, but the minister, not the commission, should make decisions relating to closures and amalgamations specifically.

Hospitals in the province agree that the commission needs sufficient flexibility in its mandate to vary the plans proposed by DHCs. There will often be changes required as a result of issues that arise during the implementation process. This could include program realignment among hospitals or perhaps issues related to the physical plant of hospitals. These are substantial powers that the hospital system is willing to accept in order to facilitate restructuring, given the unprecedented fiscal challenges over the next several years.

Under the existing act there is a requirement of hospitals, where they pass bylaws, to submit those bylaws for the approval of the minister. We're pleased with the change in the bill that would remove that approval process so that hospital bylaws could be implemented on the approval of the board.

However, in Bill 26 the proposed amendments would also enable the Lieutenant Governor, through regulation, to write in detail any or all hospital bylaws. This provision, in our view, is in direct conflict with the responsibilities of the board of a hospital and its powers under the Corporations Act of Ontario. OHA believes that the cabinet and the Lieutenant Governor should not have the power to write hospital bylaws on behalf of hospitals.

The proposed amendments to Bill 26 give the minister unrestricted powers on terms and conditions on hospital funding. We believe the unrestricted nature of these proposals would lead to micro-management of hospitals and impose a degree of inflexibility on day-to-day operations.

We would also like to flag the issue of the Minister approving medical manpower plans, which again, in our view, would be operationally difficult to manage. We will have more to add on this particular issue in our supplementary brief to the committee.

With the end of the social contract in March 1996 hospitals must return to the bargaining table with hospital unions. Given the fiscal reductions that have been imposed on hospitals for the next three fiscal years, any further increase in costs increases the pressure on hospital services and access to hospital services.

The government's proposed amendments to the Hospital Labour Disputes Arbitration Act are an effort to ensure that arbitrators apply appropriate criteria when making awards. Hospitals support that objective but do not believe that the "ability to pay" criteria as written in Bill 26 will be effective. In order to strengthen the intention to effect "ability to pay" criteria, OHA is proposing a series of amendments, which we have attached to the submission.

May of our hospital members believe that given the change in technology affecting laboratories, food services and other support services, it is important that hospitals have the ability to change and restructure their operations. Many collective agreement provisions currently restrict the hospitals' ability to contract out services or to otherwise determine which members of the staff will do which specific work. Many hospitals believe that these provisions enshrine an unnecessary level of inflexibility.

Our final recommendation is that the Pay Equity Act be amended to clarify that once pay has been achieved for a specific group of employees, there be no maintenance requirement and the Pay Equity Act no longer apply to that group.

In conclusion, we would like to reiterate that while there are considerable areas of mutual agreement between the OHA hospitals and the government on many aspects of Bill 26, we would have significant concerns if the bill were passed in its present form. We believe that the amendments we have put forward will allow the government the needed power to effect the necessary changes in the hospital system while at the same time respecting the traditional role of voluntary hospitals boards and the community's right to influence the direction of health care restructuring in the province. We believe that our amendments are reasonable and constructive and hope that they will be viewed as such by representatives of all parties on this committee.

The Chair: Thank you. We've got about five minutes per party left for questions, beginning with Mrs Caplan.

Mrs Caplan: Thank you very much. As always, a very excellent brief. I guess my first question really goes to the point of consultation. When this bill was first tabled, the minister stood in the House and said that he was just doing what you asked him to do. What you've identified today are some very serious concerns that you have, and frankly that we raised and that we share, about the danger of delegatory authority, about the fact that there is no due process and about the ability of—and I'm going to use the word "minister," but really it's not the minister, it's the ministry, to micro-manage any hospital that they wish, should they be able to convince the minister that it would be in the public interest. I see you nodding your head.

I want to ask you, did the minister share with you his proposals, as they are in Bill 26, before they were tabled? Did you know what he was planning to do?

Mr Martin: No, we did not. When the minister said that he shared information, we did meet with him and give him a list of 20-odd items that we felt were necessary if we were going to be successful in the implementation. We discussed those and he has implemented many of those. But not around the legislation.

Mrs Caplan: He didn't share the legislation with you. I feel that's not an adequate consultation process, from my perspective. I guess I would ask you if your view of consultation is that you would have that kind of sharing in advance so that you could offer advice on what was being proposed.

Mr Martin: If we had had an opportunity to read it, we could have maybe countered some of these problems and had them resolved before we got to this kind of a process. But I'm not sure what was envisaged at that time.

Mrs Caplan: What was envisioned at that time was that this bill would be passed before Christmas. The fact that we're here today I think is very important, and the issues that you've raised are extremely important. Frankly, I'm surprised that you're not here today saying that the minister has accepted your amendments and will be tabling them as government amendments, because I think that they all address very important issues. I am concerned, because after hearing the concerns about sunsetting, the news release that came out today from the minister does not do what you asked him to do.

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Mr Martin: Not at all. It does not address the basic issue. As I'll repeat again, there's no point in withdrawing the power from the commission after four years and leaving the legislation as it sits.

Mrs Caplan: The other thing, David—you've been around for a long time and so has Ron—how many times have you ever seen something sunset, even when there was a sunset provision in the legislation? Can you ever think of anything that has really successfully been sunset once a minister has had that power?

Mr Martin: I can't at the present time think of anything.

Mrs Caplan: Neither can I. That's why I would argue that while there are some minor changes in the powers that are required to allow hospital restructuring, it is very dangerous even to give a minister these powers and we should be looking at what exactly is really needed. I would ask the OHA to go back and look at what you think really has to happen, because he can tell you he's going to sunset the commission and he can tell you, "Oh, I'm not going to use all those powers," but I would urge you to look at what you think is the bare minimum requirement, given the authorities that you know already exist and the processes that already exist, and you articulated them extremely well, because I think this bill is extremely dangerous just in the powers that it accumulates in the hands of one person.

The other thing you didn't identify that I'd ask you to consider—not only in my view is "make any other direction" too broad, but I'd ask if you believe that it's too broad to have that "in the public interest" test without any criteria. Does that give you any pause?

Mr Martin: Sure it does because, in whose opinion? Mrs Caplan: Right. So I'd ask you to look at that and perhaps propose amendments along those lines as well.

Ms Lankin: I too appreciate the work that has gone into this. They're very concise and clear recommendations, and I find myself supportive of a number of them. I have a bit of trouble, as I'm sure you can imagine, with some of the provisions that you've proposed with respect to the Hospital Labour Disputes Arbitration Act, but I understand the issues that you're raising. You're getting boxed in, in a sense, by the conditions that you face.

Mr Martin: We are.

Ms Lankin: So I understand what you're asking for. I think that there is the potential of an unfairness in the result of that, but that's for another committee meeting down the hall. We don't have to deal with that immediately.

On the issue of public interest, just to pick up where Ms Caplan left off, in the act it appears to give a completely wide-open definition. It does suggest some of the things that could be included but without limiting the generality of the foregoing, and it goes through and it sets out some of the things that we've seen in old pieces of legislation, like "the quality of the management and administration of a hospital; and the quality of the care and treatment of patients in the hospital," and then it adds clauses (c) and (d), which you refer to in your brief, "the proper management of the health care system in general; and the availability of financial resources for the management of the health care system and for the delivery of health care services."

Mr Martin: It's that (c) and (d) that really concern us in terms of appointing a supervisor where there's no right of appeal and no right to discuss prior to the appointment.

Ms Lankin: It actually appears to me, and I might be wrong in my reading of this, that that's in a separate section—it's 9.1—and I think it is applicable to the interpretation of "public interest" as it is used in the act in general, not just with respect to supervisors.

Mr Martin: Yes.

Ms Lankin: I think it's even broader than your concern. So I flag that for you, that it might be even more serious than you had thought.

You also indicated that you felt that the power of the minister, with respect to volunteer boards and directions to boards, to "make any other direction"—which I find extraordinary—perhaps needs to be clarified. I'd like to know how necessary you think that is. I understand that when we want to effect restructuring we want to make sure we have the powers to merge and amalgamate and close if necessary. I would argue that we don't need to go this far. I think that some of the things—you mentioned the Doctors' Hospital decision—had to do with the sole motivation and reason in one hospital situation as opposed to all of the work, for example, that's been done in the Metro restructuring study that would argue a better health care delivery at the end.

Do you believe we need for the minister to be able to step in and give directions to volunteer boards, make volunteer boards follow those directions? In fact, irrespective of your letters patent, your bylaws or any other piece of legislation, it's very wide and very sweeping.

Mr Martin: It is, and this is what we're talking about: maintaining a balance in the system. Our system works. Obviously it has its problems now, with the funding issue, but our system has worked because we had a balance. The Minister of Health—and two of you have been ministers, so you know the pressures, but there was always a balance. It had to be finally acceptable to the minister and the community, and we had our battles and we sorted them out.

You can't get it too one-sided or then you destroy the volunteer board, because, for instance, if that hospital is so frightened that it can't stand up and say, "This is not acceptable to our community," because of the fear of having a supervisor come in with a very broad mandate with no right of appeal, then you destroy the balance in the system and that's what our concern is.

Ms Lankin: We tried to understand this morning from the minister why he felt he needed the powers with respect to appointments of supervisors. We pointed out that in the old act there was a requirement for the supervisor to take into account the report of an investigator, which assumes that the report of an investigator has to be written and therefore an investigator's been appointed. Those steps lead up to appointment of a supervisor. That's gone. It can be appointed at any time by the minister directly. That supervisor can assume the management decisions of the board, exercise all powers of the board.

In asking the minister, his defence was, "Well, it's been so rarely used in the past; I mean, this is a very unusual provision," and that begs the question, if it's rarely been used, "What are you anticipating and why do you think you're going to have to use it and why do you need more powers if in fact this isn't a provision that has been used frequently"?

Has the minister given you any explanation for why he has increased his own powers to appoint a supervisor and the powers of a supervisor to take over the management and decision-making and day-to-day operation of a hospital, thereby usurping the role of the voluntary board?

Mr Martin: No, there has been no discussion around that issue, and I'm right back to exactly what you're saying. The legislation is already on the books, but it does at least give the hospital and its board the protection that it has an opportunity to discuss the issue of appointment of a supervisor for a month prior to that point. There could be situations where the issues could be resolved without the appointment of a supervisor, which means the supervisor has total power over the board. Now the board has no power once that supervisor's appointed. It's a very major step.

Mr Clement: Mr Martin, I thank you for your report and certainly the substance is very thought-provoking. I just wanted to get to process for a second, though. I think there was an allegation here that prior to the introduction of the legislation, you didn't have an opportunity to see the legislation at all. Did you see the legislation prior to its introduction?

Mr Martin: Not at all, no.

Mr Clement: Not at a meeting on November 17?

Mr Sapsford: The draft of the bill was shared at a meeting; I'm not sure of the exact date. We had a one-hour opportunity to read the sections dealing with the health portion of it and make a few comments, but it was not left with us. The copy was returned and we had no further information until—

Mr Clement: Kind of like a lockup, which is usual.

Mr Sapsford: Yes.

Mr Clement: Thank you for correcting the record, though. I do appreciate that.

Mr Sapsford: We did not have any formal consultation on the point.

Mr Clement: Right, but I think you did get to see the legislation. I guess we're under the definition of what "consultation" is at this point. But the fact is that you did have meetings with the minister to discuss public policy in the health care sphere and you have had so in the past.

Mr Martin: Yes. We had a meeting with the Minister of Finance and the Minister of Health together and then I've had one meeting since with the minister.

Mr Clement: Let me ask you this: Where in the current legislation does it say that the minister has to meet with you? Would it be safe to say nowhere in the current legislation?

Mr Martin: I don't think it's in the legislation but it's rather understood that the president of the Ontario Hospital Association would meet with the minister if there were things of this magnitude being implemented.

Mr Clement: I couldn't agree with you more. I guess my point is, would you not expect that in public policy formulation in Ontario, pre-Bill 26 and post-Bill 26, the minister de facto, regardless of what it says in legislation, is going to meet with the head of the OHA. Is that fair to say?

Mr Martin: Well, I would hope so. Mr Clement: I would hope so too.

I would like to just ask you one more question, about the OHA call to action, which made a number of specific recommendations, I think, about how to get the tools ready for the minister and for the ministry to get hospitals restructured. I've heard our minister say that from his perspective 23 out of the 25 recommendations in that report found their way into the legislation. Is that your understanding as well?

Mr Martin: All those points weren't legislative issues; they were around multi-year funding, not loading at the front end, those kinds of issues. They've done that—some of it around the labour legislation he's implemented. So it's a balance of both.

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I'm not sitting here saying that we haven't talked to the minister. What I'm saying is that the question was asked, did we have an opportunity to review the legislation and discuss it with anyone at the ministry or with the minister himself. We did not.

Mr Clement: But you saw the legislation beforehand.

Mr Martin: Only at a meeting. They briefly saw it and it was taken away. We did not have it at the OHA where we could sit down and say, "Here are the issues." That's all I'm saying.

Mr Clement: In fairness, though, it's difficult to present a fiscal plan on the one hand and on the other hand have it all over heck's half acre. So I understand. There has to be a balance, surely. Surely the OHA board knows about the balance that has to be struck between things that are matters that have to be held internal and things that are matters for public debate. That's all I'm saying.

Mr Martin: The only thing I could say is this is so complex that it takes a very high-level lawyer in our organization to sit down and start to work out what are the implications of it and what would be a more appropriate way to word this or to direct it. You can't do that by someone glancing over a huge document in half an hour at a meeting somewhere. That's not the way consultation takes place.

The Chair: Thank you very much. We appreciate your attendance with us tonight and your interest in our process. Have a good evening.

CANADIAN PENSIONERS CONCERNED, ONTARIO DIVISION

The Chair: The next presenter is Canadian Pensioners Concerned, Ontario Division; Mae Harman, president. Good evening and welcome to our committee. You have a half-hour to use as you see fit. If you leave time for questions, they would begin with the New Democrats. The floor is yours.

Ms Mae Harman: My name is Mae Harman. I'm president of Canadian Pensioners Concerned, which is a voluntary group of seniors who advocate on issues of concern to seniors and to all generations.

We've approximately 700 members throughout the province and a number of affiliate groups. We network with a number of other seniors' and advocacy groups. We send letters and position statements to government officials at both federal and provincial levels and meet with members of Parliament from time to time. We hold forums and issue a newsletter four times a year. We participate in consultations and serve on advisory committees as requested.

While in the past we have been active participants in consultations and served on advisory committees on long-term care, chronic care, advocacy, substitute decision-making, drug benefits, and have sat in on budget lockups, we have, under this government, been invited to only one consultation and that was on long-term care.

Letters to present government officials are seldom acknowledged and requests for meetings declined or unanswered. We believe that our concerns should be listened to and that our knowledge and life experience could continue to be a useful resource to those who govern.

As citizens who have lived for three-score plus years under a democratic form of government, we are most alarmed by the attempt to ram Bill 26 through in a hurry and without adequate discussion, and with the tremendous

power the bill would give the government to pry into our personal lives, restrict our choices and control our daily living. This process of decision-making and control frightens us and outranks our concerns about the various 40-some bills lumped under one act.

It would be superfluous to dwell on how the bill was presented to the Legislature, the attempt to restrict debate on the part of both members of Parliament and the public, and the intention to push so many pieces of legislation through before Christmas without adequate presentation of the real meaning of each separate bill and separate and full debate of each piece.

The ludicrous high cost of the weighty various tomes involved has made them quite inaccessible to organizations like ours and impossible to analyse what is really intended. Some ministers have obviously found analysis difficult too. MPPs will have found it extremely difficult to consult their constituents on their views of the legislation.

The government claims to be giving back control to families and individuals, but has wiped out the Advocacy Act which would have empowered the old and the disabled to make their own decisions with the help of advocates and rights advisers. It has cancelled the multiservice agencies which were being planned as community responsive programs combining health and social services and utilizing the services of local community agencies. Those of us who have worked for years developing plans for these services are devastated by the waste of our time and energy and the trashing of carefully thought out planning to meet the needs of consumers.

Seniors have a great deal of anxiety about the kind of health and social work services which will be available to them when they need them. We had anticipated that community long-term care would bring services to us in our homes and allow us to stay in familiar settings as long as it was safe and feasible. We talked about the right service at the right time and place by the right caregivers. Money from hospital restructuring was to be transferred to the community for this purpose. It appears from Bill 26 that money from hospital restructuring will go to pay the debt.

There are numerous horror stories about deteriorating services in some nursing homes. There are waiting periods in any case. There are some closed emergency wards, waiting periods for some kinds of surgery, patients sent home without adequate arrangements for recovery. We hear about cost-cutting, but little about an organized plan to coordinate all of the different aspects of health care. We've been talking about restructuring in chronic care, in hospitals, in communities, in nursing homes, but there seems no effort to bring it all together. At the same time, we hear about the possibility of various user fees for patients at every level of care.

Many of our community agencies which add so much to the quality of life for all age groups are experiencing cuts in grants. This is happening at the very same time as demands for help have increased because of the cuts in welfare and other services to the most vulnerable members of our society: the old, the poor, the disabled, the children. Community agencies are the lifeline for so

many people, especially in the lower income areas of a big city where people encounter poverty, loneliness and alienation. The loss of funds and staffing will cause many organizations to close their doors and others to cut back on the very services that are most needed. User fees seem inevitable if some agencies are to survive, but these will prohibit those most in need of services from participating.

We wrote to the Minister of Health on November 9 in regard to user fees for drugs for seniors and welfare recipients. We said in part: "The imposition of user fees sets up a two-tier system whereby those who can afford to pay for drugs will be able to purchase them and those who cannot afford them will be deprived. A \$2 fee may sound like a small amount but to a welfare recipient whose income has already been cut back or to a senior totally dependent on old age security and the supplement, it can become an insurmountable difficulty. He or she must choose whether to buy bread, or tokens to take him to the food bank, or used winter clothing, or snow boots at Goodwill or the prescription. It is likely that the prescription will be passed over in favour of the other essentials. Lack of any of the above purchases will in many cases lead to more intense health problems and a greater cost to the province in health care, so where is the saving?

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Many of us living on modest incomes just above the poverty level will find the \$100 deductible plus a fee for each prescription a real hardship if we require frequent prescriptions and expensive drugs. The prescription fee in most cases seems very high for counting out a few pills. Taking the cap off the price of drugs will no doubt cause the price of over-the-counter drugs, which most of us use—aspirin, laxatives, calcium, antacids, sunscreen and others not covered by the drug benefit program—to rise, adding to our expenses.

It is the high cost of drugs that makes the drug benefit plan expensive. Government should make the protected patents of the international cartels its focus of attention, rather than seniors and welfare recipients. The provincial government should lobby the federal government in this regard.

It is claimed that the use of drugs is abused, but it is doctors who prescribe, not patients. Duplication of prescription and overprescribing was supposed to be identified by the new computer system. If it isn't working, it should be fixed.

The spectre of user fees at the municipal level, as provincial grants to municipalities are cut, weighs heavily on seniors' minds. Our fixed incomes in most cases will not adjust to fees for garbage collection, entrance to parks and libraries, bus fare and property tax increases, poll taxes etc. As it is, seniors are dependent on hiring many services which younger people can provide for themselves—housecleaning, snow shovelling, lawn cutting, tax services.

Implicit in Bill 26 is the intent to terminate the employment of thousands of people as services and programs are cut. Many more jobs will be lost as businesses are no longer able to sell goods and services to those who are unemployed. How this will help to generate the

economy is hard to understand. At the same time, training programs are being cut and increased tuition fees will make it necessary for some students to drop out of universities and colleges and join the unemployed. Where there is no hope, the people perish. What we need is jobs, jobs, jobs.

Except for the rich, a decrease in income tax, which is tainted money taken from the poor, will be more than eaten up by increased user fees and taxes. We strongly support a fair and progressive system of taxation, with higher taxes for higher levels of income. There are too many loopholes and too many people investing and banking their money out-of-country.

Seniors groups, unlike business, are often referred to as special-interest groups concerned only with their own comfort. Our concerns go far beyond ourselves. We are parents, grandparents, aunts and uncles who care about all generations. We want for all children the opportunity to develop their full potential. We want for them adequate income security, safe and stimulating child care, training and education for useful and productive lives, good health care, and a social safety net when needed.

As much as we worry about how Bill 26 will affect our own health care, our housing, our transportation and our incomes, seniors want a caring, compassionate society and a good quality of community life for all. We will continue to fight for the fruition of these ideals.

Ms Lankin: We truly appreciate your taking the time to come down here with your presentation. I was struck by our last remarks when you said, "Seniors groups, unlike business, are often referred to as special-interest." You're not the first group that's presented here or at the day-long hearings the New Democratic Party held who has raised this concern about their views being written off by the government simply by this language of "special interests." Anyone who raises a concern or an issue and puts an argument forward can be dismissed with the back of a hand by being called a special interest, yet there are certain groups within our society that aren't treated that way.

You've indicated that you've written to the minister, and other than long-term care, you haven't participated in any consultation. Is that correct?

Ms Harman: Only on long-term care, and not with the minister; with the parliamentary assistant and staff.

Ms Lankin: Specifically with respect to the changes to the Ontario drug benefit program and the introduction of user fees in that program, which obviously has a primary effect on seniors as one of the main groups of ODB recipients, there was no consultation with your group?

Ms Harman: I might say that when your government was in power, we did have consultation. Your government brought forward some ideas for user fees and thought better of it after consultation. Our organization has had no consultation on this with the present government

Ms Lankin: Perhaps the present government would argue that that was a reason not to consult, that it might be forced to change its mind if it actually met up with you folks.

In your presentation, you did talk about the difficulty of groups to participate in these hearings, with the complexity of the bill and, I think you said, the tomes of documents. Did you have problems getting the materials or having access to the materials to review these legislative proposals and the various acts they affect?

Ms Harman: We understood that there was a high charge for them, so we didn't pursue that.

Ms Lankin: This is extremely problematic, that an organization such as yours, that doesn't have financial resources but is trying to provide an organized voice for pensioners' concerns, is left in the position of both lack of time and an inability to actually get the documents to examine what's going on. Essentially, you're having to rely on whatever is portrayed in the media to get your information.

I guess we could argue that if the government had had its way, there would be nothing left in the media, because this would have been done and passed a week ago. We hope that by travelling the province, we will be able to get more information out to people and be able to get their response.

I understand that this is sort of an umbrella question because you haven't looked at the specifics of the bill, but do you have the sense that this bill is fixable by amendments, or do have a preferred route that you would recommend the government go at this time? Some groups have suggested that we should still go back to the original request that the bills be split up into separate segments that are understandable and can be worked with. Have you given any thought to that?

Ms Harman: The previous group that presented, that has many resources we don't, expressed their difficulty in analysing the bill. It's much more difficult for our group, which doesn't have lawyers and other people who are capable of in-depth analysis, to understand what this bill is about. The timing certainly is a big problem, because there just hasn't been time to seek resources and get information.

Ms Lankin: In light of that, we truly do appreciate your taking the time to come down here to present your views on this. Thank you.

Mrs Johns: I'd like to thank you again for coming, Mae. I have a couple of questions about specific issues I'd like to deal with. I'll deal with the biggest issue first.

You talked about the drug benefit plan and the imposition of the user fee and how hard it would be for some people to handle even the \$2 fee. This issue is controversial within your own organization and with seniors and people who use the Ontario drug benefit plan. Many people who are being asked to make a copayment, even if it's as small as \$2, feel that to get 140,000 working-class poor on to the Trillium drug benefit, it's worth it for them to help the community. In fact, Murray Squires, who's the president of the Sarnia chapter of Pensioners Concerned, said, quoting the London Free Press, "He believes seniors are more than willing to help pay the drug cost. 'We had agreed to pay what seemed fair.'" What do you think about that?

Ms Harman: What does "fair" mean? It's very difficult for many seniors, and the excuse that seniors should give up something so that some other group can be covered doesn't make any sense to me. I think everybody should be covering the costs, not just so-called wealthy seniors.

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Mrs Johns: I just wanted to check on a couple of things you said in here. You talked about long-term care. As you know from being in consultation with us on that long-term care process, long-term care is increasing by 13% per year, and we need to get money from somewhere. You go on to say that money from hospital restructuring should be used for this purpose, so in effect you don't have problems with the hospital restructuring we're talking about within the act? The pensioners believe that's the right way to go?

Ms Harman: There's probably a need for hospital restructuring, but I certainly don't agree with all the details of which hospital has to go and so on. I don't think this is an organized plan.

Mrs Johns: You don't think it should be community-driven? You don't think the communities should decide on how it's done?

Ms Harman: I certainly think communities should. That's what we were doing with long-term care, planning community-organized and community-administered long-term care, and that seems to have slipped entirely out of our hands.

Mrs Johns: I just wanted to comment. You have a paragraph that says there are numerous horror stories about deteriorating services in some nursing homes, waiting periods in any case, some closed emergency wards, waiting periods for some kinds of surgery. Many of the savings we're making this government is allocating back to specific areas such as reducing the waiting lists and bringing more dialysis, which is an important issue for seniors. We're also in rural Ontario working very hard to keep emergency wards open. I'm sure that's something you would want to know with respect to—

Ms Harman: I didn't hear that.

Mrs Johns: I figured. I don't have any other questions.

Mr Clement: Is it Miss Harman or Mrs Harman?

Ms Harman: Ms.

Mr Clement: Ms Harman, I just wanted to refer back to your comment about your organization's view about the long term, that you represent pensioners but you also are grandmothers, you've got granddaughters and grandsons and so on. It's a difference of perspective.

Maybe you and I will never agree on this, but we honestly believe that the changes that have to go on, that we were elected to do, actually will enable government to fulfil its mandate in terms of services and enable children and grandchildren to have a better opportunity and more jobs in our economy. Do you want to comment on my world view as opposed to your world view?

Ms Harman: I can't see where it's helping children to cut welfare allowances, to cut grants to children's aid

societies, to be cutting back on child care. I really can't see where that's helping children.

Mr Clement: What I was talking about was the fact that we seem to be more and more in debt as a society and as a government, and that takes away money because the interest on the debt means you can't spend that dollar on child services, on education, on welfare. That's what I was referring to.

Ms Harman: This is a very rich province. We pay our CEOs tremendous salaries. There is money in this province, and it doesn't have to come from the most disadvantaged people.

Mr Clement: So higher taxes is the solution, you're saying.

Ms Harman: We're saying fair taxation, progressive taxation, yes.

Mr Bartolucci: Mae, thank you very much for your presentation. It was excellent. You don't have to be a lawyer to speak from the heart and speak simple facts that make a whole lot of common sense. With that in mind, do you feel this bill is unduly harsh on seniors, and if so, how? Do you think you're being treated fairly, Mae, through this bill?

Ms Harman: I think that we're not being treated fairly in terms of drug benefits and some of the things that will be happening through municipal cuts. I've been involved in a press conference in Toronto on the question of what we're going to do with old-age homes, whether we're going to sell some of them off or close them or what we're going to do. I don't think we're being dealt with fairly in terms of long-term care. I can't foresee, of course. I don't know what the plan is for long-term care. That has not been revealed to me, except that I know what we worked on in our communities for several years now, in terms of planning, has been wiped out with doing away with the multiservice agency.

Mr Bartolucci: The minister, Mae, has said that a copayment is not a user fee. What is your definition of a "copayment"? Would you say a copayment is a user fee?

Ms Harman: I think in terms of drug benefits, it certainly is. You're paying in terms of what you're using, so that's a user fee. In the past, it was granted to us as seniors as a benefit.

Mr Bartolucci: Do you think the minister is given too much power with Bill 26—the Minister of Health in particular?

Ms Harman: I think there are a lot of ramifications that I haven't been able to analyse. The business of information about individuals' health and how the minister can have access to that and can give it out to others—whether that is going to be changed or not is something I don't know.

Mr Bartolucci: Mae, if you look at this bill and its complexity, as you've alluded to earlier on in your presentation, would you like to see this bill split into many different sections and be dealt with—

Ms Harman: I think it's the only feasible way to handle these various pieces. They are just too much all wound up into one ball of wax.

Mr Bartolucci: Great. Do you think as well that these hearings should be extended so that everyone who wanted to would have an opportunity to take part in this process?

Ms Harman: Well, of course. This is a democracy. Citizens have the right to discuss legislation and debate it and make representation on it; at least I thought they had.

The Chair: Mr Bartolucci, did you want give Ms Lankin a chance here or do you want to keep going?

Mrs Caplan: I have one question actually.

The Chair: Not Mrs Lankin, I'm sorry, Mrs Caplan.

Mr Bartolucci: Go ahead.

Mrs Caplan: Is it all right? The government caucus have made the point that some seniors, particularly better off seniors, have said that they'd be willing to pay or help out if they thought it was reducing the debt and helping with the fiscal situation. Given the fact that there's a \$5-billion tax cut that seniors, sick seniors and disabled persons are being asked to contribute towards, do you think that's what they thought they would be helping with when they said they would be willing to help? How do you think seniors, particularly the low-income and sick seniors, are feeling about paying a new user fee in order to see the rich get a tax cut?

Ms Harman: I think there's an illusion that there are a lot of rich seniors out there, and that is an illusion. There are very few rich seniors in the first place. In the second place, I think when people talk about "Well, a \$2 fee for your prescription doesn't sound like very much," but if you're on very expensive drugs, as many seniors are and they get more expensive as you get older and sicker, then it can add up to a great deal of money. It's one thing to think of \$2 now, but how many \$2 and how often?

Mrs Caplan: Just to help with the definition, according to this government, you're a well-off senior if your income is \$16,001.

Ms Harman: I know. That's really rich.

Mrs Caplan: Then you're rich and then you can contribute a deductible and pay the dispensing fee to contribute towards the tax cut. Do you think that's what seniors thought Mike Harris meant when he said no new user fees and we won't hurt the disabled or seniors?

Ms Harman: No, I don't think they thought about it.

The Chair: Thank you, Ms Harman. We appreciate your interest in coming to make a presentation to us.

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MEDICAL IMAGING CLINICS OF ONTARIO INC

The Chair: The next group, Medical Imaging Clinics of Ontario, represented by Dr. Nabil Bechai. Welcome, sir. You have half an hour to use as you see fit. Any time you allow for questions would begin with the government members. So the floor is yours.

Dr Nabil Bechai: Thank you very much. Members of the committee, I'm Dr Nabil Bechai, a radiologist and the director of MICO, Medical Imaging Clinics of Ontario. I would like to address the committee on the proposed changes to the Independent Health Facilities Act.

I would like to thank you for the opportunity to appear before the committee for two reasons: first, to inform you about what radiologists have done since their inclusion in the IHFA legislation in 1989; and second, to make some remarks about the proposed changes to the Independent Health Facilities Act.

First, I was among the many radiologists who appeared before the social development committee in 1989 when the government made a last-minute decision to include diagnostic imaging clinics into the Independent Health Facilities Act legislation without any consultation with the affected parties. At that time it was only through the strong objection of the province's 700 radiologists and the Ontario Association of Radiologists that we had the legislation referred back to the committee. As you know, radiologists are the only group of physicians who practise as a specialty under the Independent Health Facilities Act. As a consequence, we are uniquely qualified to provide advice on the legislation to date and to offer some constructive advice about how it could be improved.

As a result of the enactment of the IHFA legislation in 1989, radiologists have been (1), required to obtain a licence in order to provide community-based imaging care; (2), restricted from providing new services; (3), prevented from opening new offices; (4), not allowed to move to a new location without receiving ministry approval; and (5), subjected to higher administrative operating costs.

Since the passage of the 1989 legislation, radiologists under the umbrella of the Ontario Association of Radiologists have galvanized into action and continue to be active in many areas. Radiologists heard the wake-up call and organized to become the most proactive group of physicians in Ontario. Our relationship with the College of Physicians and Surgeons is held out as an example of how working in consultation rather than confrontation benefits the patients of Ontario. We have become extensively involved with officials from the Ministry of Health from the junior officer level to the minister on a wide range of matters. I'm pleased to say that most of these interactions have been positive and constructive for both sides.

The dominant theme of the 1989 social development committee hearings dealt with the government's concern about quality assurance in diagnostic imaging clinics even though no evidence of transgressions was offered. Following the hearings and our inclusion in the IHFA, we undertook to redouble our efforts to ensure that no such accusation about poor quality could be made. We immediately moved into action on several fronts. Radiologists became integrally involved in the Ministry of Health's internal IHFA committee charged with the development of the regulations. The Ontario Association of Radiologists developed a comprehensive quality assurance manual for radiologist IHF clinic owners. There are hundreds of QA manuals in circulation and in fact they have been ordered by many hospital diagnostic imaging departments.

Radiologists felt that it was necessary to develop an organization outside of the Ontario Association of Radiologists that could singlemindedly deal with all of

the new demands placed on community-based independent health facilities. It is important to know that about half of outpatient diagnostic imaging exams are performed in independent health facilities. Of course, the other half is in hospitals. This represents approximately five million X-ray, mammography, ultrasound and nuclear medicine examinations done annually. It is a clear fact that the independent health facility clinics are a major component of the province's delivery of health care services which go beyond the capability of hospitals. MICO Medical Imaging Clinics of Ontario, which I'm representing, a corporation owned and operated by radiologists, was established in 1991 with a key objective of promoting high quality imaging standards in radiologist-owned clinics.

Unlike all other physician practices, radiology clinics are really akin to being a small business. Radiologists must invest a significant amount of their own money to purchase the expensive equipment necessary to operate a diagnostic imaging clinic. The average investment is well in excess of \$500,000, with many clinics having equipment costs in the range of \$1.25 million to \$1.5 million. For example, an ultrasound machine could cost up to \$250,000, an X-ray machine could cost \$150,000, a fluoroscopy unit can cost anywhere between \$250,000 to \$600,000, a nuclear medicine camera can cost about \$400,000, and so forth. In addition, imaging clinics require an extensive list of ancillary equipment and facilities, ongoing maintenance of equipment and are labour-intensive operations requiring a team of highly trained technologists. In short, these are expensive operations to run. Overhead in an imaging clinic is in the order of 75% to 80%.

The social contract has made it extremely difficult to operate clinics because the clawback has been applied to the overhead as well. A Deloitte and Touche management study which studied about 117 of the IHF clinics, commissioned by the Ontario Association of Radiologists in 1992, revealed that almost all of the clinics are operating at a loss. That's in 1992. I may add with the clawbacks that we have been facing, this has been significantly worse. MICO fears that further cuts to imaging technical fees, the fees which are intended to cover the overhead expenses, will force many diagnostic imaging clinics to close. I'm afraid that these clinics might close in the areas where they are needed most.

The goals and objectives of Medical Imaging Clinics of Ontario are as follows:

To assure quality of service to the public and the referring physicians;

To create an ongoing education program for radiologists and staff working in IHFs;

To establish an ongoing quality assurance program for diagnostic imaging clinics;

To focus the voice of radiologists when dealing with government and other institutions when dealing with matters relating to the IHFA, such as today;

To establish a source of expertise on regulatory requirements pertaining to the IHFA; and

To obtain the most commonly required items on a collective purchasing basis.

Each year, MICO's membership has grown to the point where it is now representing the majority of the IHF clinics owned by radiologists. In the past, MICO has organized many quality assurance and education seminars that have been attended by radiologists and technologists from all corners of the province. These all-day or half-day seminars have included courses on mammography, how to manage a clinic using quality management techniques, compliance with the IHFA requirements, addressing the College of Physicians and Surgeons' quality assurance process, and so forth. Officials from the Ministry of Health's alternate funding unit and senior representatives of the College of Physicians and Surgeons have made several presentations over the past four years at these educational seminars

Radiologists have also responded to the ministry's decision to nominate the College of Physicians and Surgeons as the body responsible for quality assurance in the IHF clinics. There are several radiologists who are active members of the college's radiology task force committee. Included in the membership of this committee are leading Canadian radiologists from teaching centres, as well as others who have extensive experience in both hospitals and imaging clinics. Furthermore, there are a large number of radiologists and imaging technologists who have volunteered to be college IHF assessors. MICO applauds the work of these two groups and can assure members of the legislative committee that this has been a very successful dimension of the IHFA legislation.

An enormous effort has been made by Ontario radiologists to address all of the quality assurance requirements stipulated in the IHFA legislation and regulations along with their active participation in the ongoing implementation of the College of Physicians and Surgeons of Ontario's thorough quality assessment process. The ministry, in conjunction with the College of Physicians and Surgeons, has implemented the most stringent quality assurance requirements anywhere in North America. It is clear from our many conversations with senior ministry officials that the IHFA is seen as a model for the provision of quality assurance in medical practices. The expertise of the IHFA legislation has proved that radiologist-owned clinics have a superior record of quality to those that are non-physician-owned.

I would like to now turn to the proposed amendments to the Independent Health Facilities Act as currently proposed in Bill 26. There are a number of new elements in the legislation that cause us concern from the perspective of diagnostic imaging physicians.

Revocation of an IHFA licence: Under the existing terms of the IHFA legislation, radiologists had their clinics licensed for a five-year period with a reasonable expectation that the licence would be renewed as long as the clinic was providing quality patient care.

The legislation would now allow the Minister of Health to revoke an IHF licence before the end of the normal five-year term. In addition, the amendments make it easier for the minister to revoke a licence at the time of renewal in the name of cost-effectiveness without any right of appeal to the Health Facilities Appeal Board or

to the courts and without the right to compensation. This is expropriation without compensation. This would have a catastrophic impact on individual radiologists who have investments ranging from hundreds of thousands of dollars to millions of dollars in high-quality imaging clinics. A revocation would force those physician owners into bankruptcy, cause staff unemployment and, most importantly, reduce the overall level of access for Ontario patients. I remind you once again that 50% of the outpatient imaging in Ontario is done in IHF facilities.

Any changes which the government wants to make in this area should be made in consultation and cooperation with radiologists. Radiologists can provide the lowest-cost diagnostic imaging services but such cost must recognize the enormous investment in capital which radiologists have made in and to the health care system. In this regard, radiologist-owned clinics are different. These clinics are different because the College of Physicians and Surgeons cannot discipline a non-physician owner, unlike the college's ability to remove a physician's medical licence. This remains an area of weakness in the legislation which has not been addressed. It is essential that the act not allow the government to arbitrarily close a clinic that is providing needed high-quality imaging services.

Changes to the due process: The proposed amendments remove the due process rights that are currently contained in the IHFA and in all existing statutes. The departure seems to be the trademark of Bill 26. The serious erosion of due process rights, a cornerstone of our legal system, will not be available to physicians operating under the IHFA. The removal of due process incorrectly suggests that the quality assurance program and the involvement of the College of Physicians and Surgeons have not worked, even though it is the most stringent in North America.

The government has greatly amplified the legislative authority and discretion extended to elected and unelected officials. We fear that the open-ended nature of this expansion of powers leaves the door open to abuse in the future with little or no appeal provisions for the affected parties. The government must recognize from their five-year experience with radiologists that the IHFA can be made to work successfully and that the inclusion of due process rights is a necessary and reasonable component to maintain balance.

Maximum allowable consideration: As mentioned previously, there is a sizeable investment in diagnostic imaging clinics. Radiologists were successful in getting the government to recognize goodwill value, known as the maximum allowable consideration, or MAC. The goodwill was grandparented into the legislation, although the value was frozen relative to the legislation's 1990 proclamation date. In Bill 26 there is an unclear reference to the creation of different MACs for different classes of facilities. It is unreasonable for the draft legislation to suggest the other medical practices that may be drawn into the legislation have no value. The committee should recommend that there be some clarity on this point.

Specific request for proposals: The proposed amendment provides the Minister of Health with the power to

issue a specific request for proposals, RFP, which would allow the minister to select a party to provide services and to provide that party with one or more licences. MICO's concern is that this provision is open-ended and creates the potential for significant mischief. A situation could arise where a well-established IHF clinic has been serving patients in a community for many years and is suddenly faced with the fact that the ministry has awarded another licence which affects the viability of the existing clinic. It is the advice of MICO that such provisions should be tightly defined and provide preference to the existing IHF licence holders who are recognized as highly qualified clinical owners by radiologists who are currently operating in that area.

Removal of Canadian preference: The government's proposal to remove the preference for Canadian applicants seeking a new IHF licence opens the way to allow large American entities to apply to replace local Ontario expertise. It is questionable as to how the government would be able to enforce the same level of quality assurance provisions on foreign-owned and non-physician bodies.

Collection and use of information: The power to collect and use information is without any parameters and has been properly criticized by several critics, including the media. In some ways it amounts to treating physicians and patients with less respect and fewer rights than we afford persons charged with criminal offences. Secondly, it raises the issue of whether or not ministry officials are competent to be reviewing and second-guessing clinical decisions. Will all Ministry of Health's reviewers be physicians? Even so, how will they deal with areas of objective judgement? This is an area of tremendous potential abuse.

In summary, a strong and constructive rapport with the Ministry of Health's officials has developed by means of an ongoing two-way dialogue. Legislators and members of the general government committee should note that the IHFA has been a watershed in educating both radiologists and Ministry of Health officials that this legislation cannot become a workable statute unless there is a solid working relationship between diagnostic imaging physicians and ministry officials.

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Radiologists, through MICO, have worked closely with officials to modify draft regulations to make them workable. The collaborative relationship that exists between Ministry of Health officials, the College of Physicians and Surgeons and radiologists has proven to be a more meaningful way of delivering high-quality health care. Legislators should note that any of the new directions as proposed in Bill 26 will create ill-feeling and an unstable environment. For radiology IHF clinics, it is essential that a stable environment exist, particularly in view of the large investments that must be made so that we can maintain continued quality improvements.

In closing, I would like to summarize with the following points:

—Quality assurance and high-quality management in IHF clinics is best delivered by radiologists and licences should be restricted to radiologists in the future.

—The IHFA should not be expanded to allow American or Canadian businesses to provide for-profit imaging services. They should be delivered by radiologist-owned clinics on a local basis which have direct access to patients, their referring physicians and the local community.

—Specific requests for proposals have the potential to be very damaging and should have more specific parameters developed with preference being given to the existing high-quality local providers.

—Lastly, recognize the high cost of diagnostic imaging and the need to maintain a stable environment to provide patients with access to high-quality health care services.

The Chair: We have about two and a half minutes left per party, beginning with the government.

Mrs Ecker: Dr Bechai, thank you very much for coming and bringing forward your suggestions for amendments to Bill 26. I just wanted to clarify one of your recommendations. You say, "The IHFA should not be expanded to allow American and Canadian businesses to provide for-profit imaging services."

I guess what I'm curious about is, if you have an IHFA licence, regardless of who owns the facility, you would still have the same quality assurance and rules and regulations if you were going to be set up as an IHFA here, and if a physician were to work in such a centre, that physician would be subject to the same QA and regulatory powers of the College of Physicians and Surgeons.

I'm curious why you believe that—profit or non-profit or American or Canadian—the ownership has something to do with the quality. As I understand it, the regulatory requirements would be similar so that the quality assurance provisions which, as you quite rightly point out, have been very helpful in terms of making sure that the quality is maintained, would be the same regardless of the ownership.

Dr Bechai: I think you may have asked two questions in your question. There are two things here.

The first one, which is easier—I'll deal with it first—is the for-profit. I'm not sure that with the tight supply of money we have today in Ontario, we want to give the entrepreneurs the health care dollars which should be used for actual health care. I'm not sure that that is the foremost, best way of spending money, health care dollars, which are very scarce. We are closing hospitals now, and I'm not sure that the government is really interested in putting the money in the pockets of people who want to do it for profit.

The second thing is that when it is done by a physician who owns the clinic, that physician is totally under the control of the college as opposed to if the physician is working for someone else who wants to cut corners simply because he wants to make a profit. That person might cut corners and the physician is really caught in between a rock and a hard place because he has to keep his job, but on the other hand has to live within the constraints that the owner gives. The owner does not have the College of Physicians and Surgeons to deal with. The worst thing that can happen to that owner is that they

might suspend his licence for a period of time until it will be reinstated, and the quality here is in question.

Mrs Caplan: First of all, let me say it's very nice to see you again, and I'm glad the IHFA has worked out as well as you report. I remember the last time you came before the committee some years ago. Were you consulted by the government as to what it was planning to do as far as changes to the IHFA?

Dr Bechai: No.

Mrs Caplan: No consultation?

Dr Bechai: No. We hope there will be further consultation.

Mrs Caplan: After the bill's passed?

Dr Bechai: Hopefully before, and in developing the regulations.

Mrs Caplan: You're aware that they wanted this bill passed before Christmas?

Dr Bechai: Unfortunately, but it's not the case any more.

Mrs Caplan: If they invite you for consultations now, you would propose amendments to this legislation?

Dr Bechai: Definitely, as we have suggested here.

Mrs Caplan: I hope they listen to you and I hope we'll see some amendments forthcoming, because the IHFA has worked well, and you're here today, I think, with some very important messages for this government.

Is there anything further on the consultation side? You said you've had a very good relationship with the ministry. Were you surprised that they didn't consult with you about this?

Dr Bechai: I think yes, but we can understand how it happened. With Bill 26, there are so many amendments to all kinds of different statues that we can understand what happened. But having seen what happened, I think it is very important that from now on there will be consultation, and if there are amendments to be made to the bill, I hope that the government will be open to consultation and amendments as required.

The Chair: Thank you.

Mrs Caplan: Would you recommend that they deal with the bills individually as opposed to one big package? Would that have been easier, do you think? Was that the last question?

The Chair: That was the last question, yes. Ms Lankin.

Ms Lankin: I only have a couple of quick questions. You indicated you're hopeful that between now and January 29, which is the government's stated date for passing this legislation, you'll have an opportunity to participate in consultation and to submit some amendments.

I'm wondering, from looking at the comments you've made and trying to look at the provisions under the Independent Health Facilities Act, whether it's amendments that you're looking for or whether you wish the government not to proceed with the amendments that are proposed in Bill 26. Are there portions here that you have looked at and do support? Could we perhaps distinguish?

Dr Bechai: I think we looked at the act or the amendments. Some of our recommendations are, for example, not to allow for-profit, non-Canadian interests, and this would in fact be removing some of the amendments proposed. In other areas we would like to just change or alter the recommendation a little bit, and in some other areas it's okay as it is. So I think we are not totally negative, but certainly there should be some changes.

Ms Lankin: I think one of the problems that we're all going to have as we deal with this—I should tell you, the members of the other committee down the hall have all decided to take a poll among themselves, or a pool actually, with respect to how many amendments are going to be tabled by the government on those bills that are down there. We might do the same with respect to the health sections here.

I think the problem we're going to have is one week to deal with a large variety of amendments. I personally hold the point of view that it would still make sense for us to break this down into some chunks. I don't think we will do the public process justice by January 29.

Having said that, as you go through, and if you are in a position to have some further consultation with the government and you actually provide it with recommended amendments flowing from your comments, I hope you will share those with all members of the committee, because it will be here in the committee, in clause-by-clause, that we have an opportunity to pursue those amendments, and we would appreciate it if you would table those with us very soon.

The Chair: On that note, Dr Bechai, thank you very much for your time tonight. We appreciate your being involved in our process.

That is our last presenter for tonight. Just a couple of housekeeping things. We will not be in this room tomorrow, we'll be down in committee room 1, so take everything with you that you own.

The committee stands adjourned until 9 in the morning. *The committee adjourned at 2050.*



Continued from overleaf

STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président: Carroll, Jack (Chatham-Kent PC)
*Carroll, Jack (Chatham-Kent PC)

Danford, Harry (Hastings-Peterborough PC) Kells, Morley (Etobicoke-Lakeshore PC)

Marchese, Rosario (Fort York ND)

Sergio, Mario (Yorkview L)

Stewart, R. Gary (Peterborough PC)

Substitutions present / Membres remplaçants présents:

Caplan, Elinore (Oriole L) for Mr Sergio Clement, Tony (Brampton South / -Sud PC) for Mr Kells Ecker, Janet (Durham West / -Ouest PC) for Mr Stewart Johns, Helen (Huron PC) for Mr Danford Lankin, Frances (Beaches-Woodbine ND) for Mr Marchese

Also taking part / Autre participants et participantes:

Bartolucci, Rick (Sudbury L)
Churley, Marilyn (Riverdale ND)
Curling, Alvin (Scarborough North / -Nord L)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Campbell, Elaine, research officer, Legislative Research Service Drummond, Alison, research officer, Legislative Research Service

^{*}In attendance / présents

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First Session, 36th Parliament

Official Report of Debates

Tuesday 19 December 1995

(Hansard)

Standing committee on general government



Savings and Restructuring Act, 1995

Health issues

Assemblée législative de l'Ontario

Première session, 36e législature

Journal des débats (Hansard)

Mardi 19 décembre 1995

Comité permanent des affaires gouvernementales

Loi de 1995 sur les économies et la restructuration

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 19 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Mardi 19 décembre 1995

The committee met at 0903 in committee room 1.

SAVINGS AND RESTRUCTURING ACT, 1995

LOI DE 1995 SUR LES ÉCONOMIES

ET LA RESTRUCTURATION

Consideration of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda / Projet de loi 26, Loi visant à réaliser des économies budgétaires et à favoriser la prospérité économique par la restructuration, la rationalisation et l'efficience du secteur public et visant à mettre en oeuvre d'autres aspects du programme économique du gouvernement

The Chair (Mr Jack Carroll): Good morning, folks. With respect for those who came on time, I think we'll get started. Just a couple of housekeeping items for the members of the committee: There's a package in front of you of submissions that were made. The spot at 7:30 on your schedule has been filled by a group with a long name: Church in Society Committee of the Toronto Conference of the United Church of Canada.

LAKESHORE AREA MULTI-SERVICE PROJECT

The Chair: Our first group this morning is from an organization called LAMP. Maybe you could all identify yourselves. Welcome to our committee. You have a half-hour to use as you see fit. Any time you allow for questions will be split evenly among the parties, beginning with the Liberals. The floor is yours.

Ms Maureen Boulter: The floor is mine. I'm Maureen Boulter, a board member; Dot Quiggan is a resident and a member of LAMP and also our program coordinator; Joe Leonard is our director.

Thank you for inviting us here. It was very short notice, but we were happy to hear that we could come.

We are from LAMP. LAMP is an acronym for the Lakeshore Area Multi-Service Project. It's a community health centre and more. I've just retired from teaching, which is why I'm able to come here now. I'm a long-time member of LAMP. I'm very, very concerned.

I'd like to comment first on this bill as a whole, not just as it pertains to this particular committee. As a board member of LAMP, I am responsible to the community of LAMP, to our clients, to our staff, to our volunteers, to see that LAMP's programs are carried out in the light of LAMP's philosophy. I'm also responsible to our funders—the Ministry of Health, the Ministry of Community and Social Services, Metro Toronto and others—for seeing that the public money is well spent. Every board member is aware of that responsibility.

We know this bill is going to affect LAMP in many ways, and it's going to affect the citizens of LAMP's catchment area, which is the southern part of Etobicoke. As a board member, I feel I should respond to this bill and give input on any part of it that matters to LAMP, but I am challenged by its very size and scope. We have started, but we can't possibly finish doing this job in the time we've been given. It's too big. Please break it down into digestible portions, separate the various aspects, make it possible for debate and understanding of the many proposals and of their possible consequences.

I referred to LAMP's philosophy. I'll read it to you, because it will give you an understanding of what LAMP is. It has eight parts:

- (1) Everyone has the right to live in a healthy community.
- (2) The community has the responsibility to address the needs of the individuals within the community and to provide the prerequisites for health.
- (3) The community itself, through the interaction of individuals and groups, can best determine its own needs.
- (4) The individual, LAMP and the community are partners, sharing the responsibility for meeting these needs.
- (5) LAMP views the individual as a whole person in terms of cultural background and economic circumstances.
- (6) LAMP recognizes each person in relation to their social and physical environment. We believe that promoting health involves improving the environment.
- (7) The promotion of a healthy community includes (a) the provision of service; (b) education; (c) preventive measures; (d) client participation; (e) advocacy; and (f) community development.
- (8) Some members of the community have greater needs and therefore require more of LAMP's services, advocacy and support. By empowering these members, the whole community is strengthened.

That's LAMP's philosophy. The words "community," "responsibility," "partners," "environment," "participation," "empowering," are key to what LAMP is about. I think they are key to what Ontario is about.

Our purpose is to make the Lakeshore a healthy community by contributing to the physical, emotional and social wellbeing of the people living here in our catchment area and by helping the Lakeshore community realize its opportunities and deal with its problems. Those purposes, statements of philosophy, imply involvement, participation, responsibility for the community and for oneself.

We believe this omnibus bill will undermine the health of the people of Ontario for the following reasons.

Firstly, it will lead to the undermining, the disempowerment, of people at the community level. For instance, it will give the cabinet and the Minister of Health more power over doctors and over hospitals that are currently run by community boards. The board members know their community. They have input from the community, from the doctors, from the nurses, from other health care professionals, from the patients, from the public—a wide pool of knowledge and opinion to bring to discussion and debate. The board is accountable to the community.

0910

The power this bill proposes to give to the Minister of Health undermines that process. Boards will not be able to make decisions and be confident of carrying them out. The participation of the community will be at the pleasure of the minister. They will have no opportunity to participate in real decision-making. We believe that participation is critical to health, that powerlessness leads to dependency and is unhealthy.

Secondly, one of the determinants of health is income. That sounds like a tautology, but it has actually been proven, there have been studies made to show that an adequate income is an important part of being healthy. We believe this bill will stratify our society. It will separate people by their ability to pay.

The possibility of user fees for any and all municipal services, for libraries, for parks, is going to be a particular blow to families with restricted incomes, to people with restricted incomes.

The imposition of prescription fees and the payment of the dispensing fee for prescriptions will make many who are on a borderline budget think twice, maybe even forego their doctor's advice, their doctor's treatment. Also, we believe deregulation of drug prices will lead inevitably to higher costs to patients and to the government.

The changes in the pay equity laws will leave behind a permanent underclass of workers, largely women, who are in job ghettos: child care, nursing, nursing homes, things like that. They were not organized enough to take fast advantage of the equity laws when they were first in, like teachers and many professional women; they had the organization ready, they had the knowledge, they had the power and they got it. For many women, pay equity is no longer an issue, but for many, many women the lack of it is going to condemn them to working poverty.

Thirdly, we feel—and we feel this is important—that this bill is going to lead to a loss of public confidence. Things are going to happen, suddenly things are going to be decreed, and nobody has said why, how, what: There it is.

At present, we are governed by legislation. Legislation comes after debate by elected representatives who get input from their constituents. There are regulations. They're formed after much input and debate among various levels of government. Now this bill is going to give cabinet and ministers unqualified power—unqualified power—to decree changes without the checks

and balances of input. There's going to be no accountability. That too will disempower people. It will discourage people. It will undermine public confidence.

I feel that although I've put this item last, that is one of the most important things, because in a democracy the people must believe in their government. They must believe that they can go to somebody and say something and be heard and that that will then be translated into action. I think we're short-circuiting all of that, so we ask that you reconsider giving ministers such sweeping powers.

Lastly, I want to say that we know this is a powerful government, but if the ministers are to be given such powers, we ask that at least there be a sunset clause, in other words, that these powers be given for a limited time. Presumably, Premier Harris feels that he has enough wise ministers that they will make only good decisions, that they will only be thinking of the public good, the public interest, and that they will not abuse their power. But consider: That can change. There might be in the future a Premier who has no wise ministers. Worse, opportunistic people might run for office simply because they are tempted by and covet that power.

I said at the beginning that this came to us very late. We sat and looked at a daunting pile of paper. I know that in it there are many, many items that I could pick out and apply to those three points that concern us most or that we felt concerned us most: the disempowerment of people, the stratification of society and the disenchantment of people with government. We would beg you to reconsider the size of this bill and many items in it.

The Chair: Thank you very much. Are you available for some questions now? Okay, we have about five minutes per group, so we'll begin with the official opposition.

Mrs Elinor Caplan (Oriole): First of all, I share your concerns, as you know, and I'm really pleased to see you again. I'm glad that you're here today. I think your request to split the bill is a very important one and I do hope that the ministry will listen to you.

Were you or anyone in the community health centre movement consulted by the government or informed as to the changes that were being proposed in this bill?

Mr Joe Leonard: No, we weren't.

Mrs Caplan: If they had consulted you, and I know that you have been consulted in the past by previous governments, both you and the CHC umbrella organizations, would you have told them pretty much what you said today and perhaps made suggestions on changes that might have assisted them to achieve their goals, but in a way that would not have been as negative?

Ms Boulter: I think this would have come to the board. There would have been a lot of discussion. We have a very capable board, various professional people and people from the community in general, and I think they would have had a lot of input, a lot of grave concerns, had we seen these intentions in time.

Mrs Caplan: I also share your concerns about the powers of the minister, and you referred to the determinants of health and the need to have information and to

be able to participate. We also know that the agenda of the government is a massive tax cut. It's been described as \$5 billion in value and would be \$5,000 for every \$100,000 of income. That's the magnitude of the tax cut. I believe, and many believe, that's what's driving this agenda to cut health services.

I wondered if you wanted to comment on that, because we know that when it comes to the health of the population, people need the basics of life.

Mr Leonard: One of the concerns we have is that we specialize—or not specialize—we are open to people who need us most, as when Maureen read the philosophy; a lot of those folks are having a struggle and in our community we lost a lot of jobs. Goodyear was there, Anaconda Steel. We lost, in the last 10 years, 6,000 jobs, so we feel the pinch of the restructuring of society very much in our community. There are a lot of people for whom additional costs, whether it's for drugs or for using parks and rec services, are going to be hard.

It seems ironical that the people in the middle of Etobicoke, who are able to provide their own recreation, are going to get a tax break and the people who are unemployed or people of my age—they call people my age older adults now, and that means it's very hard to find a job if you have worked 20 or 30 years in Goodyear, and then where do you go? People with that kind of contribution to society for many decades all of a sudden seem to be having a hard go of it—not seem to be; they are, many of them. Some of them have landed on their feet but many are having a hard go.

Our concern is that if we want to build a healthy community, it means that everybody in the community should have a chance to share in a full life. That's our concern, that some people may be punished by some of these regulations.

0920

Mrs Caplan: You've said that the powers should be time-limited. Yesterday the minister announced that he would sunset the commission that he's going to set up, but that would still leave the minister and future ministers those powers. Many of you have been around for quite some time. Are you aware of ministers ever giving up any powers once they had accumulated them?

Mr Leonard: Not in my memory.

Ms Boulter: Probably not willingly.

Mrs Caplan: I don't believe all of those powers are necessary and I'm wondering if your board has taken a look specifically at the powers of the minister, just those, to determine from your perspective what might be necessary and what is absolutely unnecessary. And if you do have that opportunity, would you be willing to communicate in writing to this committee your views on what powers no minister should have now or in the future?

Ms Boulter: We'd be happy to respond more fully in writing because, as I say, this invitation to come here came to LAMP yesterday at 2:15.

Mrs Caplan: Oh, heavens.

Ms Boulter: I heard about it at 3:30 and at 4 o'clock we managed to get together with one other staff person and go through and say, "What can we say?"

Mrs Caplan: Well, you've done an outstanding job in such a short time.

The Chair: Let me assure you that if you do respond and give us some more information in writing, we'd be only too happy to read it.

Ms Frances Lankin (Beaches-Woodbine): I think your last comments just underscore the problem many people are having with respect to the government's actions on this bill: This is too far and too fast and it is very difficult for people to get a hold of, number one; to have the time to go through and understand the implications and/or consult their membership about the implications; to form an opinion and be able to come forward and give informed advice with respect to the bill. This is not the way democracy should work.

Groups after groups have come forward here and have answered Ms Caplan's or my questions about consultations and have said no, that they weren't consulted. Group after group has said that there are major problems with the bill and many of the groups have indicated a problem with not having had the time or the notification to be prepared. There are others, like yourselves, who have suggested that this should just stop and the bills need to be split and we need to have the time to understand them and to work through them; not to delay the government's agenda or the process, but quite frankly to give an opportunity for some democratic input, for some informed debate and input.

I think, as we proceed over the course of these few weeks, there will be a growing cry to continue to try to pressure this government to listen to what people are saying, that there hasn't been the time for appropriate input and that these bills should be split and should be dealt with in an appropriate manner.

I appreciate your comments, particularly with respect to the issues of determinants of health. Without going into the specifics of the bill and the provisions, the overall impact of this bill, as it ties to the government's economic statement, surely is one that sets us back a long way in this province with respect to progress that was being made on the determinants of health. We will pay for that in the long run in the health care system, in the health status of our public and quite frankly in the fiscal pressures on the government in order to finance the results of that.

I know that you haven't had a chance to go through the bill in detail, but I assure you it takes huge areas of new powers on to the government, and we can see today, if you take a look at the Globe and Mail, justification for that. The minister has been backed against the wall about some of these powers, so now he's lashing out and scapegoating doctors as an occupational group. This government tends to create crises and scapegoat groups of people when it wants to bully its way through. Today's target is the doctors.

All of a sudden we hear about huge problems of OHIP fraud and doctors' fraud, whereas just yesterday the Minister of Health sat here in this room and, contrary to what he used to attack me about when I was Minister of Health, that there was \$750 million in fraud, he used the numbers that I used to tell him, which was that it was

only \$65 million when he was trying to justify himself to this committee.

I think that your concerns overall are more than appropriate. I appreciate your having come here. I worry about the fact that you haven't had the necessary time to do an analysis and to provide us with the impact for your community and your constituency.

I want to raise one last thing. You will have gone through the process of consideration of multiservice agencies in the long-term care and you will have heard the now Health minister, when he was Health critic, refer to that whole process as a bureaucratization of health care services. I can think of no further bureaucratization than what we're seeing in this bill in terms of the gathering of powers and, quite frankly, an attack on voluntarism, when we see what will be happening with hospital boards and the undermining of the role of hospital boards.

The bill does allow for the minister to take over the running of a hospital and supersede hospital boards. Have you had any chance to look at that section, and do you have any concerns of what that might mean down the road with respect to community agencies that are run with volunteer boards, like community health centres and long-term care community agencies?

Ms Boulter: I think that community health centres are going to be targeted. If they can do that to hospitals they can do it to us. Also, of course, we are very vulnerable anyway, because one of our major funders is the Ministry of Health.

I think the minister should remember that LAMP and organizations like it, hospital boards, are run by volunteers. It is unpaid labour. It is a labour of love, usually. You can't buy that sort of input.

We don't just empower the community; we enrich the community. Every dollar that we get in is matched by volunteer hours.

The Chair: Thank you. Next for the government.

Mrs Janet Ecker (Durham West): I'd just like to thank you very much for coming in and for some very helpful comments. I don't know you personally but I certainly know of your organization by reputation within the community health field.

I would like to start off by saying that one of the objectives of the restructuring of the health system exercise that we are undertaking as a government is to stop scapegoating particular segments within the health care field. We think that's not appropriate, and I will not long forget the damage when one of the previous ministers of Health, Mrs Grier, on the front page of the Globe and Mail accused physicians of not caring about fraud and abuse and couldn't be trusted to handle the problem.

I don't think any government is lily white when it comes to scapegoating any particular groups, and that's one of the reasons why we want to restructure the system: to focus resources where they are most needed; for example, in community-based care, which is something that I think the last three governments in the last 15 years have wrestled with. It's something that I think everyone has acknowledged, that community-based care, as you have described, is more appropriate.

I guess what I'd like to hear from you is that despite 15 years of government saying that we want to shift the base from hospitals, from expensive acute care out into the community centres, has it happened? Is it happening to your satisfaction?

Mr Leonard: It's kind of like we make progress and it seems to stall, and that's because it's a real challenge to change people's thinking. I think that when you're restructuring the health system, what you're really doing is almost weaning people away from a way of looking at care into a different way. It takes a leap of faith to leave all the technology and say, "If we did more prevention, we would need much less technology."

0930

But right now, we're almost addicted to the technology and to the high-priced cure. It takes a lot of government will, it takes a lot of selling to the community at large because people generally love technology. It's not only the physicians, it's also people who love it because it gives the instant cure. So when you try to restructure the health system, you also have to restructure—that's an awful strong word—but you have to have people begin to think in a new way.

There are a lot of reasons why restructuring is difficult, but perhaps the most difficult is having the population understand that if we prevent things and we strengthen communities and we build healthy places and safe places and good schools and good workplaces, we're going to have a much healthier environment. Truly, technology can do wonderful things.

Mrs Ecker: Yes, and I guess the concern is that after three governments trying and 15 years, we still haven't managed to do it. So I would submit that perhaps we may need a little bit more authority in government to try and get some of those resources from hospitals, which are very powerful, from some of the groups, and to try and shift that to the community-based centres. I think obviously that is something that takes some work to do.

The other question I'd like to ask is, what are your comments on misuse, fraud and abuse within the health system? Is this something that you have seen as a problem or something that has occurred in your experience?

Mr Leonard: Our physicians are salaried. We operate in a different environment entirely. I'm sure that there are some physicians that may abuse the system, but we don't run across it that much in our experience. We've referred a lot of physicians, but we have good relationships with referrals we made. We don't run across it in my experience. Now, I haven't asked our physicians directly that question; it hasn't come to my attention at least as a large problem.

The Chair: Thank you very much. We appreciate your interest in coming here today and your presentation.

Mrs Caplan: On a point of order, Mr Chair: I would like to ask Janet Ecker if she would retract her statements about previous governments. I think it is important on the record that members tell the truth. Never did I ever scapegoat doctors or ever take them on in a way which this Minister of Health has done, and I think she owes me an apology. I think the OMA will substantiate what I

have just said, and if this committee is going to be civil, I have to insist that my integrity is not impugned or called into question.

The Chair: I don't think that's a point of order.

Mrs Caplan: I'm asking for an apology.

The Chair: I don't think-

Mrs Caplan: Would you allow the member to apologize?

The Chair: Voluntarily if you choose to; it's not a point of order, so you're not obligated.

Mrs Ecker: I certainly was not trying to say anything which would impugn the integrity of previous Health ministers, but what I do believe is that previous governments and previous ministers have tried to make comments and divide up the health care sector. The one specific incident I referred to was not you, Mrs Caplan, and I was specific about that. I think that this is one of the reasons that we got to move on from there and not do that because I think we've got to keep everybody together in the system to go ahead.

Interjection.

The Chair: No, that's the end of the conversation.

Mrs Ecker: Our minister wasn't scapegoating doctors either.

Ms Lankin: Please, take a look at this article today.

Mrs Caplan: That's exactly right. Just listen.

Ms Lankin: Take a look at what he has done with doctors today. If that's not scapegoating, I don't know what it is.

Mrs Caplan: Talk about poisoning the well. It's exactly what I said yesterday and that's exactly what he's done.

The Chair: Let's just keep our composure, shall we?

Mrs Caplan: Just keep it up.

ASSOCIATION OF DISTRICT HEALTH COUNCILS OF ONTARIO

The Chair: The next group is the Association of District Health Councils of Ontario, represented by Susan Brown, who's the chair, and Gord Gunning, who's executive director. Good morning and welcome to our committee. We appreciate you being here. You have a half an hour to use as you see fit. Any questioning time that you leave would begin with the New Democratic Party. The floor is yours.

Ms Susan Brown: Good morning and thank you for the opportunity to come and speak to you on Bill 26. My name is Susan Brown. I'm the chair of the Association of District Health Councils of Ontario. To my right is Gordon Gunning, who's the executive director of our association.

This morning we have a brief, which I believe is being distributed, and we'll speak to some of the high points in that for, we think, about 20 minutes, and then we would appreciate a dialogue.

District health councils have been an integral part of the health care system in Ontario for the past 20 years and they have been well supported by Health ministers and the Ministry of Health over that period of time. The present Minister of Health has called us the "eyes, ears and conscience of the local community." District health councils provide advice to the minister and the ministry on local health planning, and presently, over the past three or four years, we've been looking at health service restructuring and some integration of the health care system on the local level.

Currently, the 33 district health councils of Ontario cover 100% of the province's population, with over 8,000 volunteers who provide more than one million hours of service to their communities and, therefore, to the province. We act as agents for local change.

The Ministry of Health sets the policy and benchmarks, or standards of practice, and funds the health care system in Ontario. District health councils co-ordinate planning and provide a link between the government and communities. Communities have diverse, unique needs and priorities, not only in health care but in all of the services that they provide to their constituents.

The bulk of our conversation with you this morning will be related to the health services restructuring portion of Bill 26. We believe that there is a critical link between local health planning and implementation of that planning that needs to have some such commission as the Health Services Restructuring Commission that's proposed. We have some suggestions around that, and we have some concerns.

Implementation decisions are based on informed local planning information, and there have been a number of restructuring or rebalancing exercises in district health council planning regions throughout the province and they have been going on, as I said, for about four years. Windsor is probably the most recognizable to everyone.

Local planning is essential because it provides relevant information and needs assessment and local public involvement in affecting the outcomes of health care allocation dollars for the community. Local planning can be a facilitator and integrator role to affect system change in a local community. When you bring that together, it affects system change on a provincial basis.

Local planning focuses on achieving cost savings, reducing waste and inefficiency and duplication of operations; developing comprehensive, integrated and seamless health care delivery systems that are sustainable and responsive and relevant to community health needs; achieving better governance of systems and services; some linking of expenditures to outcomes; facilitating the equity of access of citizens to the health care system; monitoring and evaluation of the planning process and outcomes of that process; timely and accurate data and evidence-based best practices demonstrating effective outcomes.

Certainly the DHC system has been able to compile evidence-based best practices on hospital restructuring or health system rebalancing in the last four years. Local planning really focuses on the right service at the right place at the right time. That can be extrapolated to a provincial context.

The Health Services Restructuring Commission will implement hospital restructuring plans within an inte-

grated system framework. Duties of the commission may be limited or specified by the Lieutenant Governor to specific commissioners and/or geographic regions, as stated in the bill.

Recommendations of ADHCO are to clarify the roles and responsibilities of both the commission and district health councils in order to ensure that planning and implementation of integrated health delivery systems are carried out smoothly and effectively.

Decisions of the commission should be based primarily on planning and analysis that has been conducted at a local level by a DHC so that community health needs are addressed through an approach to developing an integrated health delivery system.

Implementation of hospital restructuring must ensure that community health needs are met through alternatives in areas where hospital services have been downsized or perhaps eliminated.

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The establishment of the ministry's data warehouse and health intelligence units will enhance the ability of districts to plan for the health needs of their communities. Local hard, accurate, concrete data can only enhance the local planning function of the DHC.

District health councils require enhanced hardware and software to use this health status information to ensure that decision-making is informed.

District health councils require ministry support to advance the outcome-based planning approach as developed by the Metro Toronto DHC Needs/Impact Based Planning Committee.

A close relationship between district health councils and the commission is critical to advancing implementation of hospital restructuring.

The commission should be established to serve local restructuring implementation committees. Many DHCs have achieved a high level of support for restructuring recommendations in their communities, including all key stakeholders: hospitals, the medical society and labour. Although it may seem that this isn't a common occurrence and certainly we have examples of it in the DHC system but we can't say that it's uniform across the system, that kind of community support has been built by hours and hours of consultation with each other and negotiation, working towards achieving a broader vision than a particular perspective of one health care provider.

The commission should respond to requests for assistance from DHC implementation committees in districts where hospital restructuring is under way. Over the past four years, the district health council system has asked for and has received from other governments support in assisting their communities in health system rebalancing.

The commission should maintain ongoing liaison and consultation with the district health councils, which must educate local citizens on the need for change and trade-offs required in restructuring the system. It would be impossible and not good planning to maintain the status quo.

The commission should maintain a status brief on implementation activities from information provided by the different DHC implementation committees. It's sort of like an environmental scanning so the commission is aware of the status of different restructuring projects, their pace and their expected conclusion throughout the province.

The commission is seen as a roadblock buster to bring to the attention of the minister changes to regulation, policy, and bureaucratic red tape that are necessary to advance implementation. One of the difficulties for some communities has been that when they come to a resolution as a community to make some changes in their health service delivery systems they are unable to proceed because there need to be policy decisions made at the provincial level or perhaps regulations in order to be able to enact some of the changes locally. And when these communities get behind these changes, it's important to support them.

The commission could act as a repository or a collator of such issues identified by local implementation committees; to analyse common trends that impede implementation of restructuring activities. As I said earlier in this brief, lessons learned from DHCs as they walk through hospital restructuring with really a blank roadmap has been that we've been able to fill in some of the topography, and we've, as a system, been able to identify some of the pitfalls and some of the bonuses for our colleagues as they undertake these processes.

The structure and composition of the health restructuring commission is of great interest to the district health council system. We strongly believe that there should be the inclusion of appointments from local health planning bodies that would bring a perspective and understanding of local planning to implementation decisions. DHCs' planning expertise can also assist the commission's operations through provision of local resources or secondment as commission staff. There is a core, a culture of knowledge out there in communities about how we have learned, in some ways the hard way, to best go through this process. And we would very much respectfully ask the government to consider that there should be at least 25% representation on this commission of both DHC volunteers and staff.

A regional mechanism should exist within the commission to interface directly with the local DHCs to facilitate implementation of hospital restructuring plans. There needs to be an excellent communication link so that communities don't feel they've been shortchanged or that they're being micro-managed and all of the work they have done has gone for naught and there's some faceless provincial commission taking over their community.

As we have said before, the commission's structure should be based on the clearly defined roles and responsibilities of the commission and district health councils.

We believe that we need a required policy for effective implementation of health system restructuring. We need cost savings—of course, we need cost savings. We also need reinvestment. The ministry policy should provide a formula for reinvestment in the larger community of cost savings achieved through restructuring.

Funding methods should contain new models for health care facilities and physicians that provide incentives to improve utilization management.

Benchmarks: Those of you who have seen DHC restructuring studies will recognize that we have asked repeatedly for clear and aggressive planning benchmarks for health services restructuring. You need to have anchors to pin your planning on, and we need to have that support from the government.

There is a caution that the relationship between local planning and implementation of local plans is critical to the success of hospital restructuring implementation. Without clear directions, roles and responsibilities, confusion and public dissatisfaction could arise.

With regard to the amendments to the Public Hospitals Act, I'm sure that you have heard and will hear a lot of comments around this. We are not going to make too many statements. However, having been involved, as I said, with hospital restructuring in different communities in the province for the past four years, it is sometimes necessary to have an impetus to take the process just a little bit farther. We believe that an amendment to the Public Hospitals Act would provide a lever for change that may be necessary in some communities. Our caution would be that it be used appropriately.

We believe strongly in voluntary governance for hospital boards. It provides a mechanism for critical community input into decisions that affect local health care and should be respected in the decision-making process.

Human resources is an area that will require a lot of support and consideration as we move through these processes over the next few years. Hospital physician human resource plans are a key piece to health human resource planning in an integrated health care system. DHCs can provide assistance, in association with the Provincial Coordinating Committee on Community and Academic Health Science Centre Relations, PCCCAR, in localizing data and advising on the numbers and mix of doctors required at a local level.

We believe that decisions on the operation of private hospitals should be based primarily on analysis of local health needs that are provided by local district health councils.

Universal access to the best possible primary care, treatment and medical technology is highly valued by all Ontario residents, and we should continue within the government's fiscal framework. This is only possible if provincial standards on the numbers and types of health services and facilities are established within the context of ensuring universal access to high-quality care.

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Amendments to the Independent Health Facilities Act: Licensing, funding and quality assurance of non-hospital health facilities that provide selected varieties of diagnostic and treatment services should be assessed within a context for developing integrated health delivery systems based on community health needs.

Evidence-based planning of local health needs should be the justification for establishment of new services and facilities. Planning data available at the community level through DHCs should be accessed by the minister to ensure informed decision-making.

Brokerage at the local level, through local or district DHCs, may be required to ensure the forging of effective links between hospitals and community agencies by adding to the variety of services provided by independent facilities.

Provincial standards on the numbers and types of health services and facilities should be established within the context of universal access to high-quality health care. Market forces should not determine the number and types of services available. Quality of care is too important and must be preserved.

Amendments to the Physicians Services Delivery Management Act: There is an impact to the discontinuation of the physician malpractice premium supplement. We have already seen and heard some of it in the press.

The financial disincentives add to the considerable pressure family practice physicians in underserviced areas already experience in obstetrical services. Women in small communities will have to travel hundreds of kilometres, especially women who have high-risk pregnancies. Similar impacts may be expected with general practitioner anaesthetists and general practitioners providing emergency medicine.

To ensure that remote, rural and northern communities have access to primary physician care, the ministry should continue to reimburse physician insurance in underserviced areas where the lower and fluctuating volume of cases makes for an extremely sensitive breakeven point between the payments received for practising obstetrics and the involved insurance costs.

In summary, then, the district health council system generally supports the government's method for implementing hospital restructuring. District health councils are willing and able to provide input and support to help maximize the value of the Health Services Restructuring Commission.

The critical link between local planning and implementation must be maintained. Local planning makes a significant contribution to achieving cost savings across Ontario. Local planning has an ongoing and essential role in developing integrated health delivery systems.

Legislation and regulation need to be codeveloped with the system around the roles and responsibilities of the commission, the structure and composition of the commission, and policy and benchmarks that will be relevant for the commission.

As we said, we believe that health services can be delivered maintaining the high quality we've come to know and appreciate in our province, by providing the right service at the right place at the right time.

The Chair: Thank you. We've got about three minutes per party for questions. Ms Lankin.

Ms Lankin: Thank you very much, Susan, for your presentation. It's a pleasure to see both of you and to hear from your association. Certainly I think there's no group that better reflects the change of understanding of what's needed in the health care system, in terms of

reform, in terms of health-planning-based reform, than your association and what you have learned over the last number of years and how you have grown and taken responsibilities on in your communities.

I'm concerned that this bill doesn't build a linkage between your organizations in the regions and the work they've been doing in local restructuring, both hospital restructuring and health system restructuring plans, and this commission. Were you consulted about the formulation of the bill with respect to the establishment of this commission and what relationship there should be to the DHCs?

Ms Brown: I've done all the talking, so I'm going to give Gord an opportunity.

Mr Gord Gunning: We had an opportunity to present a brief to the minister, on November 2, so in that consultative process we did talk about our thoughts on vertical and horizontal integration and on hospital restructuring and what the next steps ought to be from the district health council perspective.

Ms Lankin: Did he discuss what he was planning in the legislation and this commission and your relationship with it?

Mr Gunning: Not to my recollection. It was too early in the process.

Ms Lankin: I'm going to try and be short, because I've only got a couple of minutes left. I personally believe that we should see the powers or the obligations or the expectations, the outcomes, wanted for this commission set out in the legislation, and its relationship to the DHCs. Is that a set of amendments that you would support?

Ms Brown: We clearly are asking for a clarification of role and responsibilities of the DHCs and the commission locally, and hoping for some support at the provincial level.

Ms Lankin: On the issue of voluntary governance, I take your cautions all the way through here about micromanagement, about bureaucratization, about respect for voluntary governance. I understand that if there are roadblocks, you want to see the legislation and the minister be able to get through the roadblocks. My concern—for example, in your reference to the supervisor's powers and running of hospitals etc, I was wondering if you had a couple of experiences with the existing legislation. There's never been a stated problem of what it is you might want to do that you couldn't do through the existing legislation and powers of the supervisor. The minister yesterday couldn't answer my question, why was he going to step in and take over the absolute, full job and powers of a voluntary board in these extraordinary circumstances when we haven't used the existing legislation that's there? He couldn't answer it.

From my knowledge of the Ministry of Health, my fear is that all of the desires and wishes of making it easier for the bureaucracy to step in and micro-manage are brought true in this legislation. Why do you choose to be supportive of that increased power of supervisor control of boards when in fact the existing powers are fairly farreaching and we've never had a circumstance where the

existing powers fell short of what was needed to be accomplished?

The Chair: We'll need a short answer on this; it was a rather long question.

Ms Lankin: I'm sorry, Mr Chair.

Ms Brown: I'm not sure there is a short answer to that question. It has been the DHC experience over the past four years that some of the roadblocks that have been put up have created difficulties within communities in terms of progress. I believe our caution is that it would useful to have this lever. We hope it wouldn't be necessary to use it.

The Chair: Thank you very much. For the government, Mrs Johns.

Mrs Helen Johns (Huron): Thank you for coming again today. I would like to comment on how much work the district health councils have done and how imperative they are to restructuring. I would like you to comment a little, if you can, about the Metropolitan Toronto District Health Council study and their focus on needing the minister to have more power to be able to implement or facilitate hospital restructuring. I would like to know why they recommended that. I'm wondering if it's because of past experience in the implementation process that's gone on.

Ms Brown: I can't speak for the Metro Toronto DHC but, having been a veteran of three restructuring exercises in different parts of the province, I would imagine that with the scope and magnitude of the Metro study, with the recommendations they have put forward, they need to have a greater amount of support for the implementation of their study. Also, I believe that the impact of the human resources reconfiguration of the Metro study will need to have a wide view at a provincial table. The challenges for implementation in a small, two-hospitalrestructuring community are immense and time-consuming, so therefore I believe that with 44 hospitals and a recommendation of closure or role change for at least 12 of them, the Metro DHC is seeking the assistance of the province in moving forward in that study, as well as preserving some of the regional and provincial perspectives of the institutions that are located in Toronto.

Mrs Caplan: Thank you very much. Two things: First of all, I'm disappointed to hear that after making representation to the minister he didn't share with you for further comment what his actual proposals will be. That seems to be a consistent and unfortunate pattern.

But the point I'm concerned about as well is the minister's plans for the district health councils. Both in the Legislature and in committee he's referred to the mandate reverting to that as was the original mandate of the district health councils when they were originally established, that simply being of advisory and advocacy

and not having any meaningful role.

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As you know, the role of the district health council has been significantly enhanced over the years, and while it is still advisory to the minister—the minister makes ultimate decisions—the district health council has had responsibility for resource allocation and is an important

part of the process in the determination of independent health facilities, for example.

What I want to know is whether you are concerned that your role will be diminished as a result of Bill 26 and that the new commission that is going to be established and the new powers of the Independent Health Facilities Act and all of that will limit local community participation through district health councils if the minister follows through on his threat to dismantle the district health council role.

Ms Brown: We have, I think, as a system always loudly and clearly put forward our bias for being local advocates for the community health system in which the districts are situated, and I've had the pleasure of working with both of you, Mrs Caplan and Ms Lankin, as Health minister. You have heard our strident requests for support and clarification of the DHC role in a local community. We have had very positive meetings with the minister to date, and although we weren't directly consulted, we felt we did have some idea that there was some support for some of the larger problems we were bringing to him around health system restructuring. We will be clearly talking about the need and the continuation of the mandate of district health councils as the local health planning body in communities.

Mrs Caplan: So why do you think he's publicly saying that you're going to revert to the original mandate?

The Chair: Your time is up, Mrs Caplan.

Thank you very much, folks. We appreciate your interest in our process and your presentation this morning.

CANADIAN MENTAL HEALTH ASSOCIATION ONTARIO DIVISION

The Chair: The next presenters are the Canadian Mental Health Association, represented by John Kelly, the president; Glenn Thompson, the executive director; Lynne Harris, the branch services consultant; and Mamoun Gamal, community mental health consultant.

Good morning and welcome to our committee. You have half an hour to use as you see fit. Questions will begin with the government within your time allotted. So the floor is yours.

Mr John Kelly: Thank you for the opportunity to be here this morning. I'd like to introduce the other members of the panel. We have our executive director, Mr Glenn Thompson, with us here this morning, and two of our community mental health consultants, Lynne Harris and Mamoun Gamal.

Mr Chair and members of the committee, as president of the Canadian Mental Health Association, Ontario division, I am pleased that you have provided an opportunity for me and other members to make a presentation to you concerning Bill 26.

The Canadian Mental Health Association, Ontario division, CMHA, is an incorporated, registered, non-profitable charitable organization chartered in 1952. Approximately 4,000 volunteers are active in direct board and committee service in a network of 36 branches located in communities across Ontario. CMHA, Ontario

division, and branch services and programs are funded from government grants, local United Ways and supplementary fund-raising activities.

Since our founding, CMHA, Ontario division, has made significant contributions to the development of mental health policy in Ontario. As committee members would expect, we have been very actively involved in examining the potential impact of the fiscal and economic statements delivered by the Treasurer recently. In addition, of course, we have been examining Bill 26 as the implementation device for many aspects of the fiscal and economic agenda of the government.

CMHA has in each of our pre-budget submissions over several years recommended that a central target for government be deficit reduction. It is our view that major transformational change is required in the health care system, especially in that part of the system in which we have most experience, the mental health sector.

As a result of our budget analyses, we have prepared several significant responses on the budget, and began our submissions of those documents to the individual ministers last week. Others of the documents will be completed in the next day or two, and we would be pleased to provide a package of them to each of the committee members.

It seems evident to us that it is vital to understand the budget and its impact in order to understand what type of implementation powers may be required to achieve those goals in a thoughtful and consultative fashion. We also believe it is important for the committee and for the government to have a conceptual framework within which to examine the various impacts of the budget and of Bill 26.

We believe the New Framework for Support mental health document prepared by our CMHA national organization provides that frame of reference. We have circulated a copy of that document to you and would be pleased to provide the committee with the publication concerning the framework, which has been widely circulated and is in active use in other parts of the world. The framework as a model will ensure decisions which facilitate the integration and coordination and do much-needed work to improve mental health care.

We encourage you to ensure that Bill 26 includes provision which provides authority and the impetus for positive change in the system for mental health care in Ontario.

The CMHA policy paper A New Framework for Support in Ontario notes that to live a fulfilling life in their community, persons with a psychiatric disability need more than the formal mental health services provided by hospitals, community agencies and private practice. They need to have at least the same opportunities to access basic socioeconomic support as other Canadian citizens; namely, jobs or other productive activities, good housing, appropriate education and adequate income.

Dr Fraser Mustard and others have argued that traditional health care can contribute 25% to a sense of wellbeing for the average citizen, while 50% of our sense of wellness tends to come from socioeconomic condi-

tions. The prospect of job loss, with the potential of no longer being able to afford decent housing, adequate food and other necessities and reasonable educational and recreational opportunities for oneself and one's children, is a frightening prospect for most people. For someone with a serious mental illness, the situation is especially daunting. Not only can their illness separate them from the basic socioeconomic necessities, such as the ability to work or ability to maintain a home, but the lack of those necessities in their lives has a direct and damaging impact on their mental health, and thus prospect for recovery.

The New Framework for Support community resource base demonstrates the ideal range of resources that should be available to a person with serious mental health problems if they are to live a fulfilling life within the community. The basic socioeconomic conditions of income, housing, work and education make up the foundation of this model. If people with serious mental illness do not have access to these fundamental supports, their ability to benefit from other services available to them is severely diminished.

Now to Bill 26.

Ministerial power and authority is not new. The powers available to ministers at present will be very familiar to the former ministers who are present today. To ensure that any service system is efficient, effective decisions must be taken. As chair of our CMHA board, I am very much aware of our own organization and its need to change, decide and move on.

It is the process required and utilized in the exercise of those powers which we believe the committee members should carefully consider as they review Bill 26. A full public review of the opinions of all stakeholders in the public should be a part of any major restructuring process. In the case of health care changes, we foresee that review and consultation happening most often under the aegis of the appropriate district health council, which will then recommend to government. In especially significant changes requiring legislative changes or regulatory amendment, the appropriate legislative committee in the House should have opportunity for debate.

There is a tremendous urgency for change in the mental health field. We are not using our human and fiscal resources, not to mention the social capital of our communities, to the best advantage. Simply put, we are not doing our best to meet the needs of mentally disordered persons, their families and key support persons.

There is an excellent strategic plan for change in the mental health sector in the Putting People First document approved by the previous government and developed through a long, thoughtful process by each of our three political parties over several years.

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We encourage you as legislators to ensure that Bill 26, at the end of the day, is designed to achieve the reconcilable goals of constraint and improved services. Since the Health ministry is to retain the same budget over the next several years, the challenge will be to shift resources to the highest priority needs. Defining those priorities must be the result of a full public discussion. However, at the end of the day it is the government's responsibility to

consider all of that advice, including that of an excellent public service, and then to decide to say: "Good enough. Push on." We leave our health services consumers at risk if we do not. After all, they are our reason for having a health care system.

It is well known that systems, including health systems, as they grow develop powerful entities within. We need strong leadership within the various elements within the system. At the same time, there must be mechanisms to balance those strengths to ensure a consumer focus. It is a crucial time in Ontario, and indeed in Canada, for decisive behaviour on the part of government. The state of our federation and of our economy demands it.

Mr Mamoun Gamal: Mr Chair, members of the committee, my name is Mamoun Gamal and I am a community mental health consultant with the Canadian Mental Health Association, Ontario division. My response here is about the hospital budget cuts and their impacts on the community mental health system.

The mental health system in Ontario is characterized as underfunded, unplanned, poorly coordinated, geographically uneven and heavily weighted towards provincial hospitals and psychiatric units as opposed to community services. There's a statement by Professor Harvey Simmons.

We are concerned that hospitals will concentrate more and more on core services as a strategy to streamline their spending. This approach could impact negatively on traditionally marginalized mental health units by exposing them to severe bed cuts and/or closures.

We strongly advocate that these cuts not be carried out based on absolute short-term monetary and economic gains, but rather on the long-term gains from investment in health services, especially community mental health services. These cuts must be linked to an integrated system approach, an approach which carefully studies the impacts and the potential risk involved in cutting funds from different entities of the health care system, especially psychiatric units in general hospitals, without taking into consideration the effects of these cuts.

It is worth emphasizing that the current climate of economic frugality and austerity is the very climate which produces exponential demands on community mental health services. Socioeconomic factors such as poverty and work-related stresses have been identified as major contributors to the emotional wellbeing of individuals. We are extremely concerned that as cuts occur within the hospital sector, far greater numbers of people will be seeking assistance from community services. Of course, we could always resort to the usage of volunteers, and we are actually encouraged by the government emphasis on the usage of volunteers. The volunteer corps would not only offer needed assistance to the community mental health services, but would also prove to have a very important role to play in getting the word out about the facts of mental health, thereby bringing awareness and education to their own networks and communities.

However, we also believe that effective management of volunteers needs the resources. To effectively manage volunteers, organizations need to train the volunteers about the services, thereby ensuring that the services which are offered to the community or to the clients are based on an effective and efficient manner.

With regard to the hospital restructuring commission, we advocate that the commission engage in a full but expeditious consultation that seeks the input of the stakeholders, including consumers, family members and workers in the health care system.

We believe that hospital budget cuts will not be economically sound without an integrated systems approach which takes into consideration the historical built-in vulnerabilities of our health care system.

The other response specifically addresses the impacts of Bill 26. According to Bill 26, public hospitals, among a number of institutions, will be permitted to establish crown foundations. This will allow them to have a competitive advantage in fund-raising. This situation would result in a situation where it will not only add pressure on community organizations, including mental health organizations, but also pressure on fund-raising dollars, which are already drying up.

We are particularly concerned about several sections proposed in Bill 26. One of these sections is specifically concerning the definition of "insured services." This definition, we feel, allows explicit discrimination on the basis of age. We are also concerned that this section constitutes blatant discrimination based on age in contradiction of the Charter of Rights and Freedoms, the Ontario Human Rights Code and the Canada Health Act.

In addition to that, there is another section, 29.3, which is speaking about the minister's responsibility for controlling the supply and demand of physicians. According to a government study, there is an approximate oversupply of almost 2,500 general and family practitioners. In addition, there is a large oversupply of psychiatrists in certain areas of the province.

We believe that some level of intervention may be needed from time to time in determining the supply and demand for physicians in the province. However, prior to enacting legislation, the government should consider alternatives such as incentives, improvement in conditions and differential remuneration. Linkages with the community, as well as specific population needs, must be taken into consideration before enacting drastic measures which might result in the total loss of physicians to other provinces or other countries.

In conclusion, we believe that the savings which will be achieved from hospital cuts should be reinvested into the health care system and community mental health system. The retention of this money to fund the government deficit, or even to finance the tax break promised by the government, will prove to be paradoxical in terms of opening up gaps in a highly needed and often underfunded community mental health system.

Mr Kelly: Now I'd like to call on Lynne Harris, who will speak on the impact of the economic statement on the drug benefit plan for mental health consumers.

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Ms Lynne Harris: Good morning, Mr Chair and members of the committee. I too am a community mental health consultant with CMHA, Ontario division, and I'm pleased to be here this morning to speak to you about the

impact of the November 19, 1995, fiscal and economic statement and Bill 26 on the drug benefit plan for mental health consumers. Many mental health consumers are prescribed medication on a weekly basis in order to diminish the potential for overdose. This means that a person with a psychiatric disorder who is on social assistance could, under the proposed changes to the Ontario drug benefit plan, be paying a \$2 dispensing fee once per week. This is a prohibitive amount for an individual on social assistance.

Similarly, a mental health consumer who is stabilized on medication and earning \$16,000 or more annually would now have to pay a \$100 deductible annually and a dispensing fee. The same situation would apply to an individual with a mental illness who is working and earning \$24,000 annually and supporting a family. In the current fiscal environment, work is frequently contract or part-time with no drug benefit plans to offset medical costs. Psychiatric medications are very expensive and such costs could be prohibitive for those individuals in the above-mentioned circumstances.

We are also concerned about the ability of the psychogeriatric population on social assistance or a small pension to pay for psychiatric medication along with other prescription medication which they may take for ailments related to aging. Section 4 of the Ontario Drug Benefit Act is to be amended to provide that when a physician writes "no substitution" on a prescription, or the consumer requests a specific medication, the government will no longer pay the difference between the specified or "no substitution" drug and a less costly interchangeable generic product. Pharmacies may be able to charge this cost to Ontario drug benefit plan recipients.

We recommend that if a physician prescribes a "no substitution" drug, or the consumer is requesting a specific drug, it is because that drug has proven most effective in treatment, and the drug should be fully covered under the plan.

Section 13 of the Ontario Drug Benefit Act may be changed to provide that the minister may collect directly or indirectly, and use or disclose, personal information. The CMHA, Ontario division, believes that all medical information should be confidential and private. This is especially critical to psychiatric consumers who may already suffer enough social stigma and loss of confidentiality as a result of their illness.

Proposed amendments to subsections 18(2), 18(3), 18(4) and 18(5) would allow for copayment for drugs, providing different copayments for different classes of persons or drugs. The psychiatric consumer should have equitable access to medications prescribed for them, particularly the majority who are on social assistance or earn too little money to afford annual deductible costs.

Under the proposed new section 22 of the Ontario drug benefit plan, the amount paid for a specific product will be by agreement with the manufacturer. There will be no obligation to decrease the price if the price decreases in the marketplace. If there are increases in medication costs due to the manufacturer's set price, and a psychiatric consumer cannot obtain an interchangeable drug, again the consumer will suffer as a result.

The proposed new section 23 of the Ontario drug benefit plan is critical to the psychiatric consumer because psychiatric medication may not be clinically interchangeable and a change in what appears to be similar medication might result in dangerous consequences to the consumer.

Again, CMHA, Ontario division, respectfully recommends equitable access to critical, specifically prescribed medication for psychiatric consumers. We would also recommend that non-prescription medication, such as laxatives, antacids and sunscreen among others, which is taken to counter the unpleasant side effects of psychiatric medication be included in a drug plan for psychiatric consumers, as these medications are also costly. Frequently, a psychiatric consumer will go off a necessary medication because he or she is unable to tolerate the side effects.

Under section 7 of the proposed new Drug Interchangeability and Dispensing Fee Act, we recommend that the practices under the Prescription Drug Cost Regulation Act, which is the current act, be resumed to the advantage of the psychiatric consumer with a low income who is not covered under the act. This would include the substitution of generic drugs for brand names that are prescribed if, under the act, the substitute has been designated as interchangeable with the brand-name product.

The current act also covers people who are not covered under the Ontario drug benefit plan. It controls costs, it allows drug substitutions, it allows information on the prescriptions to do with the dispensing fee and the prescription, and is generally much more amenable to the psychiatric consumer.

The mental health reform process has emphasized moving the psychiatric population into the community and assisting them to lead meaningful lives. Equitable access to the medications they require is part of sustaining a psychiatric consumer in the community. Our organization hopes and expects that the government will make this possible, consistent with the principle of Putting People First, namely, the psychiatric consumer-survivors.

Mr Kelly: Thank you, Lynne. I just want to comment—I know the time is short—that we have some documents that are still in the process of being gotten together over at our office. We will get those over to you today. Anyway, there is a short time available for a few questions, I think.

The Chair: We have time for almost the impossible, three quick questions, starting with the government.

Mr Tony Clement (Brampton South): Thank you very much for your presentation. You've given us a lot to think about, a very thoughtful presentation.

I wanted to repeat some of the things that you said in your presentation—that major transformational changes are necessary in the health care system—and I echo that. A presenter yesterday, I believe it was the president of Humber College, said that the greatest threat to health care is the \$10-billion-per-year government deficit, because that takes money away from necessary services in the health care system. Would you like to comment on that?

Mr Kelly: I think that there's enough money in the system; it's just a question of getting it allocated in the proper place. Our position is to ensure that we can keep the health funding envelope in place and that we can get sufficient money transferred into the community sector, where we think we can provide services at an equitable cost, an even better cost than they are today—and better services.

The Chair: Ms Castrilli.

Mrs Caplan: If it's possible, Mr Chair, I have a very short one that can also be answered in conjunction with my colleague. I'll place it and she'll place hers and then they can respond to them both together. Is that okay?

The Chair: Okay, you've got a minute. That's all.

Mrs Caplan: I'm assuming that you were consulted by the minister on what he was proposing in the bill, and I would ask if you gave him the advice about the impact particularly of changes to the drug benefit plan during that important consultation when he shared with you what he was proposing to do. Annamarie has a question.

Ms Annamarie Castrilli (Downsview): My question really stems from a comment that you made that the release of personal records might actually undermine the mental health recovery of patients, which is quite different from many other patients in other situations. Do you believe that the minister requires those extensive powers in order to be able to accomplish the goals of restructuring within the health sector?

Mr Glenn Thompson: Can I respond to both of those questions? No, we were not consulted on Bill 26 in its creation. In terms of medical records, we've stated quite firmly the need for confidentiality of those records. We can appreciate at the same time the need for auditing, the need for review of expenditures, and I think it's quite reasonably possible to find ways to accommodate confidentiality and to have aggregated data that one can examine from an audit point of view to probe whether or not excessive charges are occurring, or whatever. We'd be very anxious to assure that the detail of someone's confidential psychiatric record not be able to be accessed other than by medical individuals.

Ms Lankin: You're one of a number of groups that have indicated they have not been consulted on this. I can tell you that there is a growing call for this bill to be split and to be dealt with in manageable pieces.

I want to ask you specifically about an issue you've raised which we haven't discussed yet here through these hearings, and that's with respect to section 11.2 of the Health Insurance Act. The amendments in Bill 26 take out the current definition of insured services, and makes reference to a new section 11.2. In that section it sets out a new definition of "insured services," and for the first time we see reference that insured services could be some services that are only for people of a certain age group and they're not insured if those things are done to people of another age group.

This is potentially very frightening. You're the first group that has referred to this explicitly and brought it to the committee's attention. We've asked the minister in the past what he meant by this new section. We've not had an answer. Could you elaborate on your concerns and your fears with respect to this section?

Mr Thompson: Lynne, would you like to pick up on that, as you referred to it? Or was it Mamoun's reference?

Ms Harris: I think it was Mamoun's reference, but I could comment.

Mr Gamal: Actually, we find that the idea behind the explicit mention of age means a restriction of services. Particular services would not be provided for a specific age group. The whole idea about that is an idea which we feel is not conducive to the Ontario Human Rights Code and to the Charter of Rights and Freedoms and also to the Canada Health Act. The concern was that no particular group should be singled out in order to bring about saving in the system. Any group, despite this kind of discrimination, might not be conducive to the healthy community, which we aspire to have, actually.

The Chair: Thank you very much. We appreciate your interest and your presentation this morning.

ONTARIO COALITION OF SENIOR CITIZENS' ORGANIZATIONS

The Chair: The next group is the Ontario Coalition of Senior Citizens' Organizations, represented by Morris Jesion, Don Wackley and Beatrice Levis. Good morning and welcome to our committee. You have a half an hour of our time to use as you see fit. Any time you allow for questions will begin with the Liberals. The floor is yours.

Ms Beatrice Levis: On behalf of the Ontario Coalition of Senior Citizens' Organizations we'd like to thank you for providing us with an opportunity to share our views concerning Bill 26.

I would like to introduce, first of all, Don Wackley, who's a member of our steering committee, who will give general information about our position. Then I will continue particularly on the subject of user fees.

Mr Don Wackley: My name is Don Wackley. I'm on the steering committee of OCSCO and I represent the Parkdale Community Health Centre.

The Ontario Coalition of Senior Citizens' Organizations is a coalition of over 80 seniors' groups from across Ontario representing the concerns of over 500,000 senior citizens. OCSCO unites both large and small groups from community, union, women, ethnic, native and veteran organizations on matters affecting the quality of life for the senior citizen community.

Given the overwhelming scope of this bill, we will restrict our comments today to the implication for health care, specifically (1) what we believe are the underlying philosophical or driving forces behind this bill; and (2) those sections of the bill which potentially pose the greatest threat to the health and wellbeing of Ontarians.

Power: The real driving force behind this bill is the quest for arbitrary power or, to be exact, extraordinary, unprecedented and unnecessary new powers for the government, especially over the delivery of health care services. What kinds of new powers are we talking about with regard to health care?

Schedule F, health services restructuring: The proposed change to the Ministry of Health Act and the Public Hospitals Act would create the Health Services Restructuring Commission that would provide the government with sweeping new powers to take over, merge and close hospitals at will.

Schedule H, amendments to the Health Insurance Act and the Health Care Accessibility Act: The proposed amendments give the Ministry of Health or an appointed inspector new powers concerning confidential health information. Essentially, they will be able to go into any medical facility and look at, copy, remove and disclose medical records if they are of the opinion that it is "necessary" for more effective management and delivery of health care services. The Minister of Health has assured us that he will amend this section, but how exactly does he plan to amend it?

This new legislation also impedes the abilities of physicians across Ontario to deliver care. The legislation allows the government to unilaterally set fees for health care services, paying some doctors lower rates for the same services based on location and training. The government will be able to retroactively order a doctor to repay the government for services provided to patients, such as medical tests and X-rays, later deemed to be "unnecessary."

Moreover, it gives the government the power to decide which doctors can be tied to hospitals and revoke their privileges without legal recourse or compensation.

These cumulative effects are extreme and harmful to patient care. These changes will likely result in reduction in services, an exodus of doctors from Ontario and reduced choices for patients in picking a physician.

Ms Levis: Now I'll deal with the question of user fees. The support of and potential for the introduction of user fees appear to be another major underpinning of this new legislation. This is clearly evident in several sections of the proposed legislation and is a direct attack on the principle of universality.

Schedule F, health services restructuring: Changes made under this section make it much easier to charge patients facility fees for health services. This would encourage physicians to open clinics or facilities in their respective fields, such as ophthalmology, oncology, radiology and other medical specialties.

This in fact is opening the back door to a two-tiered medical system where the ones who can afford treatment will receive it. Hospitals will also become less needed, therefore allowing more privately run facilities to take over specialized care. This appears to be an attempt to copy Alberta's medical system, which has already been penalized under the Canada Health Act.

Schedule G, amendments to the Ontario Drug Benefit Act, the Prescription Drug Cost Regulation Act and the Regulated Health Professions Act, 1991: The changes proposed in schedule G have potentially devastating effects for all low-income seniors and persons on social assistance. For instance, single persons with income below \$16,000: a \$2 user fee for all prescriptions; persons with incomes above \$16,000: a \$100 deductible

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plus the cost of dispensing fees up to \$6.11 per prescription. Many seniors unfortunately have a number of prescriptions for various ailments.

While these fees may not seem like very much, in combination with all the other cuts and user fees, seniors and social assistance recipients may be forced to choose between having a prescription filled or buying groceries or public transit tickets.

Moreover, this bill allows for the deregulation of drug prices. This government claims that prices will go down, but there is no reason to believe this. Combine this with the huge number of drugs and pharmaceutical products that have already been delisted from coverage under the drug benefit program and you have a recipe for disaster.

By implementing user fees we assume the goal is to control government spending and thereby save money. There is no proof that user fees will cut costs. Saskatchewan introduced user fees in 1968 and the end result was that there was no change in health costs.

As many governments have since learned, user fees act as a very small source of revenue relative to the total cost of operating health care services. User fees restrict accessibility and create a two-tiered health care system: one for those who can afford it and one for those who can't.

The most serious problem with user fees is that they penalize the least healthy and often the poorest in society, for they often discourage people from seeking treatment they need. This leads to greater costs in the long run, with an increase in hospitalization cases. Preventive health care is the most effective type of health care.

Instead of targeting the Ontario drug benefit program, there are several areas your government could reform:

- (1) Pressure the federal government to repeal Bill C-91, the drug patent legislation. This is one of the main causes for increasing drug prices.
- (2) Save the Ontario taxpayers and treasury millions of dollars by enacting legislation similar to that in British Columbia, making it mandatory to prescribe and dispense generic drugs where available.
- (3) Demand that pharmacists lower their dispensing fees. These fees make prescription drugs too costly.
- (4) Overuse and misuse of medicine are both costly and unhealthy.
- (5) As you know, seniors don't prescribe drugs; doctors do. As a result, many drugs prescribed are not needed. We must look at educating seniors and doctors on this issue.
- (6) Some groups affiliated with OCSCO are already working on programs where seniors train other seniors on the use of medication. Your government should encourage such programs all over the province.
- (7) Lastly, look at a different system of payment to physicians.

We believe that in order for your government to implement a new drug system where user fees will be incurred, it means setting up another way of cost of collection. This will add another level to bureaucracy, which your government is trying to streamline, and therefore will inflate costs to the taxpayers to run this new system.

Schedule H, amendments to the Health Insurance Act and the Health Care Accessibility Act: Amendment to the Health Care Accessibility Act opens the doors for hospitals to charge user fees for anything not covered by the Canada Health Act; for example, food, linens, bed pans, crutches etc. Given the extensive cuts in funding to hospitals, there's no telling what the cash-strapped hospitals propose to charge for. Already acute care hospitals would be permitted to charge patients on a waiting list for chronic care hospitals and nursing homes approximately \$37 per day.

Schedule F, health services restructuring: In the proposed amendments to the Independent Health Facilities Act, it is clear that the government is trying to facilitate the privatization of health care. This new bill removes any restrictions against for-profit firms that want to start up independent health facilities. In fact, if our Minister of Health wanted to, he could invite for-profit health providers to set up clinics in Ontario.

In the name of hospital restructuring, chronic care hospitals are being unfairly targeted. Some chronic care units will have to close. With the proposed amendments in schedule F, it is encouraging more American for-profit nursing homes to cross the border and fill the gap. There is already in place a recommendation to privatize the Metropolitan Toronto Homes for the Aged which are renowned for the quality of care and services they provide. This movement towards privatization in the health services field particularly puts the elderly, disabled and sick at great risk, especially with respect to quality of care.

We are also concerned by the amendment that repeals an existing preference for non-profit facilities and for Canadian ownership. Is the government opening the doors to for-profit health care giants to the south?

A broader definition of health: the implication of cutbacks. Health can no longer be narrowly defined as only the absence of illness and disease. Health is far more encompassing, including the social, emotional and psychological wellbeing of individuals and communities. Ontarians are already dealing with other cutbacks, both provincial and federal, that magnify the detrimental impacts Bill 26 will have. While the changes may appear rather small and insignificant in isolation, their cumulative effects are enormous.

Let's look at the impact upon seniors. Due to cutbacks to hospitals and lack of co-ordination in community-based care, seniors are being sent home sicker and quicker. The cuts in funding to the transit system have meant that transportation is now more costly, and specialized transit services such as Wheel-Trans have been scaled back. Cuts in funding for education have meant that seniors now have to pay a fee for board of education programs delivered through community centres. Many drugs seniors rely upon, such as calcium pills, have been delisted for coverage under the drug benefit program. The plans to remove rent controls may mean huge rent increases in accommodation costs. Now, under Bill 26, seniors will

see the introduction of more user fees, the closure of more hospital and chronic care beds, and decreased access to services in general through privatization.

Bill 26 was introduced under the guise of providing the public sector with the tools needed to achieve fiscal savings and restructuring. What this bill does is to confirm the authoritarian, autocratic and undemocratic nature, as well as a systemic dismantling of the social welfare system in Ontario. This legislation, through enabling others to charge user fees, is in direct conflict with the principle of universality. User fees will further diminish universal health care in Ontario, with the poor and the seniors bearing the brunt of your proposed actions.

A recently released study showed that seven out of 10 people in Canada consider social programs essential to the Canadian identity. This seems to run contrary to the cost-cutting course this government is charting, especially through Bill 26.

What this government must remember is that holding a majority of seats in the Legislature does not remove them from the responsibility of fairness, balance and respect for the democratic process in all of their activities. Therefore, we are asking this government to withdraw Bill 26 in the interests of public welfare.

The Chair: Thank you very much. We have about three minutes each, beginning with the Liberals.

Ms Castrilli: Thank you very much for appearing today. I was struck not just by the thoughtfulness of your presentation but that the presentation seeks to put into context what the impact will be to seniors, that it isn't just the issue at hand, but it's a whole host of measures that will affect the quality of life for seniors and, ultimately, for all of our communities.

I wonder, given the very large group of people that you represent, whether you have been consulted by the minister or the ministry, or had any contacts of any kind leading up to this bill.

Ms Levis: Not leading up to this bill. 1050

Ms Castrilli: None whatsoever? That's surprising.

One area that you did not touch but that you might want to talk about is the whole issue of records. Seniors, like all others, are going to be subject to the provisions of the act which will allow the minister to have very broad powers to look at personal records, private, confidential records of the seniors. I wonder if you have any comments on that.

Ms Levis: Yes, we actually have.

Mr Wackley: As someone who represents a community health centre, we deal with people who come to us who normally wouldn't go someplace else because they're afraid of the information that they give us—battered women, methadone treatment people, the homeless, all of those people. If our records can be gone through and information that these people desperately don't want out—they're not going to come and visit us and if they don't come and visit us they're not going to come and visit anybody. So as a health centre, we're really frightened about that part of the act.

Ms Castrilli: One final question: You have advocated for the withdrawal of Bill 26 in the public interest. In the event that should not occur, would you support a breaking up of the bill into sections in order that there might be more full public debate, to give you time to look at the provisions more fully?

Ms Levis: Yes, actually. I think we should have indicated that possibility. Absolutely. We think there must be more public consultation and more public debate on the various measures being proposed.

The Chair: Thank you very much. Ms Lankin.

Mr Alvin Curling (Scarborough North): I just want to commend you on an excellent presentation, especially the democratic process that this government has really shut people off from presenting—

The Chair: Mr Curling, I did not recognize you.

Ms Lankin: I also wanted to say how much I appreciated the thought that went into your presentation. I'm interested that you're yet again another group that is saying very clearly that this government did not consult you about this legislation, that you haven't had the time to prepare fully and understand the impact of this legislation on the groups and people you represent and that you're asking for the bill to be split up and to be dealt with in a proper democratic process. I just want to put on the record that this is a growing call that we're hearing from group after group after group, and this is only day two, morning two, of the hearings.

You made reference to your concerns about the level and nature of administration, the administrative burden that would be placed on the ministry to oversee the user fee. I was interested in that because I think you talked about it as another layer of bureaucracy.

As I look through this bill, there's a theme for me. There's the administration, the user fees, there's the quota legislation for doctors, there's micromanagement of hospitals—an example of that is the minister can actually step in and can impose an amendment on the physician human resource plan—there are new, sweeping powers to the minister and to supervisors that he appoints to go into the hospital and take over the actual day-to-day operation of the hospital from the volunteer board, so it's an undermining of volunteers and the role of volunteers in our communities. I see that very much as sort of imposing a Queen's Park bureaucracy on what should be left in the hands of communities to decide and in the terms of voluntary governance for volunteers and their role.

Seniors have been given more and more of a voice over the last few years with respect to community organizations and consumer input into delivery of services. Does this at all undermine steps that you've been able to win, to have seniors' voices heard in the voluntary governance structures of the health care system?

Ms Levis: Since part of the community care and the health, particularly the long-term care—the government has not yet announced its position on that or proposals or what it's going to do—all we can say is that we're apprehensive that we see this bill as certainly making it possible for all the work that has gone on in the various communities to develop the community health system and

long-term care. It has the potential to negate a good deal of the local community differences and the local community organizing that's already been done.

Mrs Ecker: Thank you very much for a very thoughtful and useful presentation with some very helpful input as we continue through the hearing process here. I was interested to note that you flagged the pressure on the system from misuse, overuse, overprescribing of drugs, which I think, when we've seen the drug benefit plan costs triple in the last 10 years, have certainly been a significant cost pressure. Many other provincial governments have chosen to implement some sort of copayments, user fees or whatever to try and cope with the pressure; others have decided to delist drugs. We chose to have a small copayment system based on income so that we could do two things: (1) help reduce the cost; (2) reinvest the savings into extending the drug benefits for 140,000 working poor.

I guess what I'd be interested in your feedback is, in order to handle those cost pressures, should we have delisted drugs so that they were right off the plan at all? We felt that it was more appropriate to try and maintain that coverage and do a small user fee—copayment based on income. I just wondered if you felt—because I think you flagged the fact that there are some pressures in the system—how that should have been handled.

Mr Morris Jesion: Our feelings on this matter essentially are as follows: It's going to cost more to collect the user fee than the cost of saving and, furthermore, the largest single savings will be by the provincial ministers of Health lobbying the federal government to change the drug patent legislation which gives exclusive protection for many, many years to the ethical drug manufacturers as opposed to the generic drug manufacturers. That's likely to have the largest single effect on the prices of drugs, and going the way of introducing user fees is counterproductive not only from, you know, affordability, the two-tier system, but it's going to probably cost more. The research has shown that it costs more to collect the fee than it's going to be worth in saving.

Mrs Ecker: What happens with the federal government is not within our control, so I guess in terms of coping with the pressures here in Ontario we would have been forced, I believe, to delist drugs so that seniors would not have had access to them at all on the plan.

The Chair: Thank you very much for your presentation, folks. We appreciate your interest in our process.

GLAXO WELLCOME INC

The Chair: The next presenters are from Glaxo Wellcome: Robert Last, Bruce Beamer, Bill Laidlaw and Paul Lucas. Good morning, gentlemen. Welcome to our committee. You have one half-hour to use as you see fit. Questions at the end would begin with the New Democratic Party. The floor is yours.

Mr Robert Last: Good morning. Thank you for the opportunity to appear before the committee today to present the views of Glaxo Wellcome Inc on Bill 26, the Savings and Restructuring Act.

The Chair: Just a second. Could you each identify yourselves so Hansard knows?

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Mr Last: Yes. Actually, I was just coming to that. I'll do that right now. Let me begin with Bill Laidlaw, our director of government affairs; Bruce Beamer, our manager of provincial relations in Ontario; my name is Rob Last, I'm the regional business director for Glaxo Wellcome in Ontario; and Paul Lucas, our president and chief executive officer.

Our comments this morning will focus specifically on the proposed legislative amendments to the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act. First let me begin with some background information on our company. Glaxo Wellcome Inc is one of Canada's largest research-based pharmaceutical companies, generating sales of approximately \$380 million annually. We operate two facilities in Ontario: a head office in Mississauga and a manufacturing and development laboratory in Etobicoke. In total, Glaxo Wellcome employs more than 1,100 people in Canada, and in the past seven years, Glaxo Canada, now Glaxo Wellcome, has more than tripled its workforce, with 80% of its employees located in Ontario.

Glaxo Wellcome specializes and is a leader in many therapeutic areas, including asthma, migraine, gastroenterology, oncology, epilepsy and anti-infectives. We invest more than \$50 million in research and development, including \$10 million in basic research in Canada annually through partnerships with companies, academic institutions and support of independent researchers, 54% of which is invested here in Ontario. We support fellowships at several universities, including the pharmacy doctorate program at the University of Toronto.

We would like to offer our views this morning on five proposed legislative amendments pertaining to the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act: price deregulation in the private sector market; the elimination of full payment of "no substitution" prescriptions; the introduction of copayments/deductibles; negotiated drug benefit price; and linking prescribing criteria to reimbursement.

First, on price deregulation in the private sector market, Glaxo Wellcome supports the change to the Prescription Drug Cost Regulation Act which will result in the deregulation of the price of pharmaceutical products in the private market and the removal of government from playing a role in a market where it has no direct financial interest.

We would like to stress, and this is contrary to some reports in the press, that this deregulation will not result in significant price increases on patented drugs for consumers. In fact, in the deregulated market being proposed, we see competition maintaining or moving prices down. In our own case as it relates to price, I'd like to point out that the prices of Glaxo Wellcome's products in Ontario have not increased since 1993 and no price increases are scheduled for the upcoming year.

Many of you are aware that while pricing controls do not apply to generic products and those products not covered by a patent, introductory prices for new brandname patented drugs and subsequent price increases for these medicines are and will continue to be regulated federally by the Patent Medicine Prices Review Board, regardless of changes in the provincial legislation.

Glaxo Wellcome believes that as the government withdraws from regulating price in the private market, it is of great importance that consumers be provided with all the necessary information needed to make informed choices. The requirement to post the pharmacy "usual and customary" fee, although necessary, is not enough to help consumers comparison-shop among pharmacies. Consumers have a right to know the components that make up the price of prescription medicines. Glaxo Wellcome proposes that a regulatory amendment be added to the Prescription Drug Cost Regulation Act requiring the full disclosure of each part of the total prescription, including the actual drug cost, the markup and the dispensing fee. This breakdown will enable consumers to effectively compare the service and cost of products offered by various pharmacies.

Next, on the negotiated drug benefit price, we understand the government's interest in eliminating the best available price, BAP, under the Ontario Drug Benefit Act and introducing a system in which prices are negotiated between the manufacturer and the minister. While the details of how this system of negotiated prices might work are not yet available, we would expect that the pharmacoeconomic analysis submitted by manufacturers with each new product submission will take on even greater significance.

We would like to offer the following comments on this new pricing system. First, with this greater reliance on pharmacoeconomics, it is hoped that the savings to the total health care system, and not just the provincial drug programs budget, will be taken into account when assessing the value associated with a new product's price. Second, there is a need for a clear and transparent set of rules for which negotiations on price will occur. Further, that a clearly defined regular process, either annually or semi-annually, be identified that allows for an orderly adjustment of prices reflective of the economic and competitive changes in the environment. We would further propose that a regulation be added to the legislation which prevents the possibility of price spreads developing in the government drug plan.

Next, on the elimination of payment of "no substitution" prescriptions, we understand the need of the ministry to reduce expenditures and eliminate full payment of "no substitution" prescriptions under the proposed changes to the Ontario Drug Benefit Act. It is, however, important to recognize that for clinical reasons certain patients will still require the brand-name product instead of the generic. It is therefore essential that a simple and timely process be in place to allow for these situations, in that the section 8 option requires too much time and documentation from physicians.

Secondly, consumers should have the right to be informed about product substitution before it occurs in both the public and private markets. Glaxo Wellcome proposes that a legislative amendment be added to the Ontario Drug Benefit Act requiring pharmacists to inform physicians and patients about product substitution and

that patients be told that they have the right to pay the difference between the brand and generic versions of the drug. Currently, under the mandatory substitution provisions in the legislation, neither the customer nor the physician is informed when the prescribed product is switched to a cheaper alternative brand.

On the subject of introduction of co-pays and deductibles, currently Ontario is the only province in Canada which does not require a patient contribution for publicly funded prescription products. We understand and support the government's proposed model in which contributions are related to the patient's ability to pay.

On linking prescribing criteria to reimbursement, these proposed changes to the Ontario Drug Benefit Act will permit the government to restrict payment for specific drugs to situations in which prescribed clinical criteria are met. While this provision may be necessary to allow for changes in the special drugs program and/or the nonformulary benefits list, Glaxo Wellcome has concerns about the potential use of these prescribing criteria.

We are committed to the rational promotion and costeffective use of all of our products. We support the
development, distribution and adoption of evidence-based
practice management guidelines in which prescribing
recommendations are one component. Guidelines, however, must allow the physicians flexibility to exercise
their professional judgement when treating patients. In
addition, the development of guidelines or prescribing
criteria must involve an open process which permits the
participation of stakeholders who have expertise to
contribute to such a process. We would hope that the
government would utilize our expertise in the development of clinical practice guidelines.

Glaxo Wellcome is also concerned that the proposed changes to the Ontario Drug Benefit Act which allow prescribing criteria to be linked to reimbursement will result in financial penalties which may in fact supersede the professional judgement used when prescribing. In addition, linking these criteria to reimbursement will require the pharmacist to enforce these guidelines and place them in a role which they may or may not be ready or willing to assume. We encourage the Minister of Health to consult with the stakeholders in this process before implementing prescribing criteria and linking them to reimbursement.

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In conclusion then, in the absence of regulations accompanying this legislation, it is difficult to provide comprehensive input on how some of these changes will work in practice. We would, however, welcome the opportunity to review the draft regulations and provide our comments and suggestions to the Minister of Health.

With regard to the proposed changes in Bill 26 pertaining to the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act, Glaxo Wellcome supports the deregulation of price in the private market, the consumers' right to know about product substitution, the need for full disclosure of the cost components of the price of medications, the establishment of a fair and transparent negotiation process for drug prices and the need for stakeholder involvement in the development of

prescribing criteria and flexibility for physicians when implementing these criteria.

We recognize the need to restore the fiscal health of the province and are supportive of the government's general direction to achieve this objective while making Ontario a good place to do business. Glaxo Canada, now Glaxo Wellcome, has been in Ontario for over 90 years and is committed to doing business here and working with the government to address industry and government issues and arrive at solutions.

I'd like to thank you for your time and attention, and we would be pleased to respond to any of the questions that you might have.

The Chair: Thank you very much. We have about 15 minutes for questions, beginning with the New Democratic Party.

Ms Lankin: Five minutes each?

The Chair: Yes.

Ms Lankin: You could encourage me, you know. Thank you very much. I appreciate your presentation and the time that you've all taken to be here. I feel like I have an ongoing relationship with your organization. Every role I play in my political career, there you are, which just speaks to the importance of the industry and a company such as yours and how you seek to be involved in the public process.

On that point, the specifics that you have set out here, particularly in your conclusion of what you support, there's only one of them that actually appears in the bill, and that's the deregulation of price in the private market. The other elements are all either additions or amendments that you would be seeking.

Mr Last: Right.

Ms Lankin: Did you have an opportunity to discuss these with the minister in advance of the bill and suggest that these are the sorts of things that he needed to include? Did you get any feedback as to why he didn't include them?

Mr Last: I think Paul might be best to speak to that.

Mr Paul Lucas: I think that over the years, because we are a highly regulated industry, we've had the opportunity to have discussions about a number of these issues, ones that are included in the bill and others that may not be at this point in time. We've also had the opportunity through the joint liaison committee which was established back in 1994 to provide further input to the Ministry of Health, again on all of these issues.

In addition, on behalf of the Pharmaceutical Manufacturers Association of Canada, PMAC, I represented the views of the industry as a whole on many of these issues in a meeting with the minister, I guess it was a couple of months ago.

Ms Lankin: Did you get any feedback from the minister as to why, for example, a consumer's right to know about product substitution or your suggestion around full disclosure of cost components or, perhaps even more importantly to your industry, the assurance of a fair and transparent process with the negotiations of the prices and with the development of prescribing clinical

guidelines and the linking of those to payment, why none of that appeared in the bill?

Mr Lucas: I think on the issue of informing the consumer when substitution occurs, this has been an issue that's been around a long time, since Bill 54 and Bill 55 were debated, and the issue has been input at various points in time. I think we were not anticipating this bill opening up at this time and therefore had not recently made any input regarding that issue, and we wanted to take this opportunity to make sure that our thoughts were heard on the consumer being informed about substitution and so on.

Ms Lankin: You're very gentle and in your approach I can see that you don't want to say to me that in fact the minister didn't discuss those with you or tell you why those ideas weren't in there. I remember hearing very directly from you as an industry. You didn't pull any punches then. But then again I wasn't offering you complete deregulation of price in the private market, so that might have been one of the reasons there.

I am very interested in the last minute we have in getting your comments on the need for stakeholder involvement in the development of prescribing criteria and the flexibility for physicians. The issue of no subs is an important one for the industry, and I understand that. It's also important in some clinical cases for the actual therapeutic treatment of the patient and the flexibility of the physician.

We've been working for a number of years on the development of clinical guidelines. It was a surprise to all of us, I think, to see this provision implemented in the bill which ties the payment and reimbursement to some internal bureaucratic judgement of what is clinically necessary. Could you talk about what your expectations are and is there a legislative amendment required or can this be done through another process?

Mr Last: On the issue of prescribing guidelines we know, certainly from our experience in the clinical development of products, that individual patients may respond quite differently to identical therapies. While practice guidelines may address the needs of the majority of patients, there must be sufficient flexibility to allow the physicians to exercise their professional judgement without penalty to themselves or to the pharmacist or to the patient.

Given our expertise, and I can only speak for Glaxo Wellcome as a stakeholder in that process regarding products in therapeutic areas, we believe that we should have the opportunity to participate in the development of those criteria and to offer input on the implications of implementing those.

Mr Clement: Thank you very much for your very cogent presentation. It shows that while we all acknowledge there has been a limited amount of time to prepare for this, there is an opportunity to prepare something which is internally consistent and helpful to the committee. I thank you for that.

I was quite taken by your remarks in your presentation that according to your analysis of the industry the deregulation of drug prices will not result in a significant price increase. In fact, you said that they would either be maintained at the current level or that they'd be moving prices down. Could you give us the Reader's Digest synopsis of your industry and what the forces at work are that lead you to that conclusion?

Mr Last: Yes, I'd be happy to. Basically, when you look at the components of a prescription, there are three costs associated with that. There is the drug cost, there is the professional fee and there is the markup. I'd like to deal with each one of those individually and explain my position behind them.

If we look, first of all, at the drug cost, drugs essentially fall into one of four categories. First, we would have branded drugs, which are genericized. If I take one of our own examples, that would be Zantac. In the case of Zantac and in the case of virtually any product like that, well over 80% of the market has gone to the generic brand, so any price increase of that branded genericized product would have very minimal impact on the market, if any at all.

The second category would be generics. We've seen again that price pressure on generics; continues to drop. We rarely, if ever—I can't recall very many situations where generic prices have actually risen, so they—

Mr Clement: That's the structure of the industry—

Mr Last: The structure. As more generics enter the industry, the price pressures—their only response basically to competition is to reduce price, so they would continue to reduce price.

In the third category, you have brand products for which there is patent protection and pricing in that category is regulated by PMPRB which, as you know, limits the price increases to the CPI, which again I think is very—

Mr Clement: Federal regulation.

Mr Last: Exactly. The last category, which represents a very minute category, would be branded products for which there is no patent protection and no generic—a very unusual situation.

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We have one product like that, Becloforte. However, we also have a national pricing policy. We would hope to maintain that. We have, as I mentioned in my brief, been very responsible with our pricing practices and would not see deviating from that in the future. I can only think quite frankly of one other product that would fall into that category and that would be insulin, which might be a product similar to that, but again you have competitive pressures in the marketplace from different manufacturers.

Going back to where I began with the original, the drug component cost, we don't see any pressures anywhere along that spectrum that would result in exorbitant rises in price.

Moving down to the next two layers, the fee and the markup, on the fee side we have already seen many plans in the marketplace which cap these today. As well, we have six companies in Ontario that are either currently acting as, or have intentions to act as, pharmacy-benefit-manager type organizations.

We can look to the model of the United States when we look at markups and fees with respect to the impact those types of organizations have had on pricing. We've seen the impact in the United States; they've been very successful actually at reducing price in all three components.

The only other issue I didn't address was markup, and we already have seen one company limit the maximum of its markup to 10%. We suspect as others enter the fray, there will be continued downward pressure as a result of competition.

The Chair: Thank you for that explanation. It was the Reader's Digest version, but it took up all the time.

Ms Castrilli: I have one brief question then I'll turn it over to my colleagues. I want to thank you for coming here. Your presentation was very thoughtful on five issues that deal with the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act.

Bill 26, however, as you know, is much broader than that. It deals with a whole host of things. It deals with changes to the Municipal Act, to the Pension Benefits Act, to the Mining Act. I wonder if that troubles you and whether you would be in support of splitting the bill to give proper and due consideration to the issues you've raised here today.

Mr Lucas: It's difficult for us to respond to that question because we haven't taken the time to look at all the implications of all of the other parts of the bill, so I don't think I can really give you an opinion on that at this point.

Ms Castrilli: My question really was, would you be in favour of splitting it so we can deal with the issues that you raised in a more thoughtful form?

Mr Lucas: I'm not sure if that's necessary. I don't understand the process enough to say yes or no to that.

Mrs Caplan: I've a couple of questions. I'm really pleased to hear that the minister consulted extensively with you and that you met with him. I do find it surprising that he didn't consult with the Ontario Hospital Association or the College of Physicians and Surgeons or the Canadian Mental Health Association or any of the consumers' groups that have been here, but the fact that he did consult with Glaxo Wellcome is important and it reflects the fact that drug deregulation and price deregulation is in this bill and that you're happy about that. Consultation is important and the fact that you've made that point is helpful to the committee.

My question is about that the amendment you have suggested which would assist consumers to do as the Health minister said, which was to shop around to get the price. Without that amendment, is it your opinion that consumers will not be able to use market forces to get the best price for the drugs they're going to be purchasing?

Mr Last: I can respond to that. I think it probably just makes it more difficult, quite frankly.

Mrs Caplan: So this bill makes it difficult for people now to be able to shop around?

Mr Last: No. I think in the absence of full disclosure of all components of the prescription cost, it would make it more difficult for consumers to assess the difference

between products being offered from one pharmacy to another.

Mrs Caplan: The point I'm making is that the minister has said that price deregulation is okay because consumers will be able to shop around and exert market forces, and your point is that an amendment is needed in this bill to fully disclose that information so that consumers can then shop around and get a better price. Is that your position?

Mr Last: Yes.

Mrs Caplan: So we would expect to see an amendment from the minister to help people shop around and to exert those market forces. Have you discussed that amendment with the minister or is this the first time that you've—

Mr Last: No, this is the first time.

Mr Lucas: Yes, this is actually the first time we've had the opportunity to provide that input.

Mrs Caplan: That's great. I really appreciate that.

There was one other point I wanted to make, and that was on the establishment of practice guidelines. I very much support a role for the industry, which is very important to the province and has had extensive experience in the establishment of research and projects of that type. That experience is helpful.

Has the minister given you any indication that they intend to establish practice guidelines and that you could be an active participant in that?

Mr Last: No. Again this is part of this presentation process today. Essentially, what we are saying is we would hope that in the event practice guidelines are developed, we would be considered as one of just many stakeholders who would like to participate in that process.

The Chair: Thank you very much, gentlemen, for your presentation here today and your interest in our process.

ONTARIO MEDICAL ASSOCIATION

The Chair: Our next guests this morning are from the Ontario Medical Association: Dr Ian Warrack, Dr John Gray and Dr Bill Orovan. Good morning, gentlemen, and welcome to our committee. You have one half-hour to use as you see fit. Any time for questions at the end would begin with the government and would be shared equally. The floor is yours.

Dr Ian Warrack: I'm Ian Warrack. I'm a family practitioner from Vanier and president of the OMA. With me today is Dr John Gray, a family physician from Peterborough, and Dr Bill Orovan, a Hamilton urologist and the OMA's honorary treasurer. John is also the OMA board chair.

We're pleased to stand before you today and describe to you our tremendous concerns about Bill 26, the Savings and Restructuring Act. Never before have I seen one piece of legislation that contains such broad-ranging implications for health care. The OMA has spent the last three weeks reading schedules F, G, H and I and trying to understand what they mean. It's been a difficult job and we've likely missed some things, but I'd like to spend the next 15 minutes addressing some of our

concerns about what this legislation will mean for physicians and their ability to provide high-quality medical care to the citizens of Ontario.

Since it would be virtually impossible to cover all the problem areas on a schedule-by-schedule basis in our allotted time, we'll focus on a few themes and illustrate our concerns with references to the legislation.

Before getting into our detailed concerns, let me address several of the statements attributed to the Minister of Health in the media during the past 24 hours. While seemingly urging Ontarians not to play politics with the health of the people of Ontario, the minister seems to be doing just the opposite. Political rhetoric and the generation of false impressions will not help provide the quality and accessible medical care that Ontario's 23,000 physicians want for their patients.

The Ontario Medical Association has pursued discussions with this government in good faith, and like most Ontarians we view the medical system as a true partnership. We want to work with all stakeholders to find constructive solutions to the problems we all know must be addressed. But we want that dialogue to be based on fact rather than rhetoric. This dialogue is not helped when the minister says there is little new or radical about Bill 26. In fact, it represents an unprecedented intrusion by government into the workings of the medical system.

This dialogue is not helped when the minister says that the vast majority of the measures in this bill are supported by the public. In fact, a recent public opinion survey indicates that the vast majority of Ontarians oppose some of the government's proposals affecting the medical system.

This dialogue is not helped when the minister suggests that concerns over the privacy aspects of this legislation constitute a red herring. In fact, a number of observers, including the government's own privacy commissioner, have voiced serious and legitimate concerns on these very issues.

Finally, this dialogue is not helped when the minister reportedly accuses physicians of inappropriate conduct or of somehow holding up the process of meaningful reform. In fact, the OMA has tabled a number of constructive proposals in recent months, several of which have been adopted by the government and claimed as their own.

Mr Chairman, your job as a committee is to review the contents of this bill. Our job as the representatives of Ontario's doctors is to point out legitimate areas of concern about what is in that legislation and to do so in a factual and rational manner in the best interests of our members and our patients. That is what we now propose to do.

One of the most striking things about the omnibus bill is that it eliminates partnerships in health care. This occurs in a number of areas, but it is probably most pronounced when it comes to government's relationship with physicians and the Ontario Medical Association. In our 114-year history, the OMA has found that governments have valued the work of physicians and have

actively sought to work together to improve the system. That work has taken a number of forms. Some were initiatives specific to the issues of the day and some were more process oriented.

This process work was designed to create a stable environment between government and physicians with a set of shared expectations to guide the relationship. One of the things that helped to make our partnership work over the years was the fact that governments acknowledged it wasn't practical or useful to deal with individual physicians or small groups of physicians on broad policy issues.

Governments recognized the OMA as their working partner. On the other side, individual physicians were secure in the knowledge that the OMA acted as their voice to government. Unfortunately, this government does not appear to share that vision and would be able to pursue its stated intentions to dissolve its relationship with the OMA under schedule I of the bill. It is unclear to me why this government seeks to deny physicians the opportunity to be represented by the OMA in their dealings with government and what alternatives, if any, they intend to put in place.

Dr John Gray: A careful reading of Bill 26 may give us some clues regarding Dr Warrack's last question. In fact, government does not appear to want input from its traditional partners; rather it wants to seize full control of both the system and its component parts and micromanage them from Queen's Park.

I'll illustrate that point by noting several provisions from the bill. Under schedule F, the government is taking upon itself the ability to decide which hospitals should be open, what services they should provide and which physicians should work there. Through schedule H, it is taking upon itself the right to decide which areas of the province are oversupplied with physicians and will then prevent any new physicians from entering these areas.

Not content to limit their control to where physicians practise, the government is also planning to dictate how physicians practise, by giving itself huge new powers to decide on whether a particular service was medically necessary or not. I would argue that the reason physicians are in training for eight to 15 years is in fact to learn how to make these decisions. If government can now second-guess every test, procedure, prescription and specialist referral ordered in this province, then we're going to see physicians practising a very different style of medicine, with diminished time to focus on patient care.

The impact of government's increased presence in the system will be felt not only by practitioners but also by patients, since this government is prepared to go so far as to insert itself between the doctor and the patient by allowing itself access to confidential patient information and then claiming the right to disclose the information as it sees fit. It seems to me that this will have a chilling effect on the information the patients will share with their physicians and could ultimately have a negative impact on the care that the patient receives.

The minister has, to date, been inconsistent in his response on this issue. Initially it appeared that he was prepared to move away from this Orwellian provision,

but in a later communication he was less clear, stating that we have misinterpreted the law. With due respect to the minister, I think the words in the law are straightforward.

Coupled with government's attempts to micro-manage the provision of medical services is the systematic removal of fairness and due process for physicians. Throughout the bill we see government rescind physician rights, take away rights of appeal, and then insulate itself from any legal action. While it is apparently a matter of some debate whether governments are entitled to override the rule of law by legislative fiat, there is certainly no moral debate. I cannot see how this or any other government could expect the physicians or the citizens of Ontario to trust in its integrity when it gives to itself the power to abrogate agreements signed in good faith.

Physicians don't have to dig too deeply within Bill 26 to find evidence of this. For example, in schedule I, government has the right to cancel its agreement with the OMA. It then goes further and retroactively protects itself from any legal judgements on past breaches of existing agreements. In fact, some of those breaches have been recognized as recently as the last few weeks, with the OMA being awarded a judgement in excess of \$30 million and an accumulating penalty of about \$1 million per month. The government can also overturn rulings of the judiciary, as seen in schedule G and drug pricing. Finally, under schedule F, government can in effect expropriate a medical practice licensed under the Independent Health Facilities Act. Physicians owning such small businesses are not even accorded the protections usually seen in proper expropriation proceedings.

Dr Bill Orovan: I'd like to expand upon Dr Gray's last comments regarding fairness and due process because Bill 26, when taken as a package, strips from physicians all vestiges of natural justice that we have under the current legislation. Billing numbers, hospital privileges and payment for services rendered are but a few of the areas in which government has removed rights or given itself unfettered powers to control the practice of medicine.

Under schedule F, physicians' rights of appeal under the Public Hospitals Act are terminated in the event that the minister orders the closure or amalgamation of a hospital and may be terminated or substantially reduced by unilateral regulation at any time and under any circumstances. Since physicians are not generally employed by the hospitals in which they work, they are not protected by the Employment Standards Act or collective agreements, so losing the right of hearing an appeal under the Public Hospitals Act essentially denies physicians any rights for due process.

Another instance of the lack of due process, perhaps even more odious than the previous example, is the fact that the general manager of OHIP may personally determine whether or not an individual physician will be deemed eligible to receive a billing number. An unfavourable determination is not subject to appeal, thereby denying that physician the ability to earn a living in Ontario.

This legislation places physicians in the unique position of being trained for a profession which they are then forbidden by law to carry out. This occurs because Bill 26 allows government to deny a physician the billing number which enables him or her to work within the government-insured system, while at the same time the Health Care Accessibility Act prevents physicians from charging patients directly for insured services.

In addition, the government has taken for itself the power to unilaterally define an insured service and to set fees for those services, including the power to make regulations which set a fee at "nil." This means the physician cannot bill patients directly for the service but will be expected to provide it for free. This is obviously unacceptable. Government must either properly fund the services it sets out in the schedule of benefits or make the political decision to delist them and allow payment for the services to be driven by the marketplace.

Government's agenda for setting fees dismisses the traditional method of fee-setting which rewards the time and effort required to perform a service, and instead allows the minister to determine by regulation the fee payable based on a variety of factors, including specialty, experience, frequency with which the physician provides the service, geographic area, and the setting in which, or the period of time when, the service is provided.

Government also leaves itself room to identify "other factors" to influence this decision at a later time. Basically this means the government can manipulate the fee schedule in order to meet its social policy objectives of the day and opens the system up to political favouritism, cronyism and regional rivalries. This will create an environment of incredible uncertainty for physicians since government may at any time raise, lower or eliminate payment for a particular procedure. This may be done without notice and is not subject to appeal.

Even where rights of appeal are preserved, Bill 26 has the effect of rendering them useless in a number of circumstances. For example, schedule H allows the Health Services Appeal Board to require a physician to provide security for any amounts deemed by the general manager of OHIP to be owing to the government. This deposit may be set at any amount and payment may be demanded before the appeal is heard. This gives the appeal board the authority to essentially deny physicians the right to appeal by requiring prepayment of monies that the general manager says are owing.

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Dr Gray: Aside from the general lack of fairness in Bill 26, there's one last issue that we would like to address and this is the announcement in the mini-budget that the government will stop contributing to the Canadian Medical Protective Association plan, the CMPA. As you know, CMPA defends physicians in actions taken against them but also acts as an insurance company and pays out on claims to patients who have taken legal action against physicians.

In Ontario the statute of limitations for initiating a medical malpractice action is one year from the time the patient knows or ought to have known about the problem. Often this information does not come to light for many years, and for children, the clock doesn't start running

until they reach the age of majority. In addition, the courts have recognized that there is virtually no time limit for complaints and suits involving sexual abuse.

This means that the CMPA, as a responsible insurer, must use its best actuarial information to cover its potential payouts to patients in years to come. It is not a so-called surplus; it is a fully funded base to provide fiscally responsive payments in the future. When I compare the responsible way in which the CMPA runs its affairs with the huge unfunded liability of the Workers' Compensation Board, the Canada pension plan, or even the lawyers' compensation fund, I cannot help but wonder whether this is the type of fiscal management that government prefers.

In terms of effect on doctors, it should be noted that the government's contribution was initiated because doctors voluntarily gave up a negotiated fee increase to create a segregated fund specially for this purpose. The rebate serves to ameliorate the high cost of medical malpractice insurance in certain high-risk specialties and domains of practice, one of which is delivering babies.

For general practitioners and low-volume obstetricians, the loss of the CMPA rebate will mean that it is no longer economically feasible to continue to provide this service. An extensive study by the OMA committee on reproductive care has already identified a serious downturn in the number of physicians who make obstetrics a part of their practice, and the loss of the CMPA rebate can only exacerbate the situation.

Physicians are already planning to modify their practices based on Mr Eves's announcement. For example, in my own community the obstetricians have met and suggested that in all likelihood only one of the four of them will continue delivering babies. The other three will likely refer their deliveries to him, and new obstetrical patients will only be taken on as his workload permits. At the same time, many family physicians in the community are also reconsidering whether to continue obstetrical practice.

I think this kind of thing will be happening across the province in the very short term, and I would urge the government to rethink its position on this matter.

Dr Warrack: I hope this brief analysis of our concerns helps committee members to appreciate the incredibly negative impact this legislation is going to have upon the physicians of this province and the patients we serve. In a number of areas, for example, physician supply and distribution, government has chosen to ignore the tremendous amount of work that has been done to try to resolve very complex problems. Instead government is using a ham-fisted approach to uproot our young physicians from family, cultural, social and religious ties in order to force them to move to communities where government has decided they must practise.

This is being done without regard for the fact that their training could be inappropriate for the type of medicine that is required in those rural and northern towns. I am gravely concerned about what this will mean for these new graduates and whether medicine will continue to attract the bright, dedicated students that it has in the past.

As a final note, I'd like to emphasize the OMA's continued willingness to work with government on the various issues that Bill 26 is intended to address, including the myriad of issues that we've been unable to raise in this short presentation. We've proposed a number of creative solutions over the last few months and would like to have the ability to continue to do so in an appropriate forum. We'd like to have an opportunity to put forward some of our alternative solutions.

Thank you for your attention. We would be pleased to use our remaining time answering any questions you may have.

The Chair: Thank you, gentlemen. We have about four minutes per party, beginning with the government.

Mrs Ecker: Thank you very much for a very detailed presentation. I think you've had a lot of issues raised there. One of the things I would like to just have some comment on, with your familiarity and expertise in the appointment-of-privileges area, is that my understanding is that the appeals for privileges are still there, with the exception of when a hospital is actually being closed, so that the rights to appeal privileges and that are still there to the Hospital Appeal Board in other circumstances.

I guess what I would be interested in is why, given the fact that we've already lost 6,700 hospital beds in Ontario and that has meant significant downsizing with significant job loss by nurses and other staff who have not had a right to appeal those closings of wings and beds, I'm curious why we need to have an appeal mechanism for physicians who lose privileges because some actual hospitals have had to close.

Dr Orovan: I think you are right in saying that that provision is available in the bill if hospitals are ordered to merge or amalgamate or close, but clause (u) also gives the government the power to extend that to any circumstance in which regulations can be made to apply. So it is not just in that narrow range but in any circumstance regulations can be made for the normal operating conditions for hospitals, which would make the exact same appeal process unavailable to physicians.

Mrs Ecker: Okay. Thank you. The other question is that for many years, governments and the OMA have wrestled with the problem of underserviced areas. Many proposals have been put forward, various kinds of incentives have been used, and unfortunately we still have a growing discrepancy in the number of physicians in underserviced areas vis-à-vis, for example, the GTA.

Now, my understanding is that the minister has indicated that some of the proposals that are being worked on now through the OMA and PAIRO and other groups, he's prepared to allow those to have an opportunity to take effect before he looks at making actual legislation about limiting billing numbers or whatever.

I guess the question is, after years of not being able to solve this problem through consultations, through discussions, through many, many governments, through many, many organizations putting forward recommendations, how do we solve the underserviced area problem?

Dr Gray: If I could try to address this, clearly there is no quick fix for this problem, and we have indicated to

the minister in repeated discussions throughout the fall that we do not believe that there is a simple answer. The government has indicated it believes the billing number solution will solve the problem, in the short term and the long term. We believe that is not the case.

I will admit that the incentive measures that currently exist have not proven satisfactory. We have acknowledged that. We acknowledged it in 1993 in our discussions with government and in fact negotiated what we thought would be a good solution to the problem. The government of the day failed to implement it, and this government has also failed to implement that solution. We have proposed a very comprehensive incentive program, in fact, to be funded by the doctors of the province. The minister has recently seized on this and claimed ownership of this, but in fact this was proposed by the Ontario Medical Association.

We believe there are long-term solutions to the problem, but they will take time to come into effect. If the minister is saying he's going to wait till the summer to see what happens, I think he's deluding the people of Ontario, because the newest graduates won't enter into the system until July. They'll only be starting to enter practice, so we're not going to see a solution by the summer.

The Chair: Thank you very much, Mrs Ecker. Your time is up.

Mrs Ecker: But are not the Scott recommendation implementations going to be of assistance?

Mrs Caplan: You've been very gentle, using the word "deluding." I'm going to quote what the minister said yesterday. These are his words from his opening statement:

"We want to continue to work with the medical profession in a relationship based on recognition and respect. Cooperation, fairness and equity do not come from a legal document. It comes from the will to work together.

"And Bill 26 provides many of the tools that I am sure will improve partnership and trust between physicians and the government."

As I proceed to ask these questions, I said to him after he continued on with the rest of his statement yesterday that in fact he had poisoned the well in the relationship. He suggested full consultation with you and discussion of his proposals, and I'd ask you to comment on that, but I do have a very specific question on the issue you raised on CMPA.

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The College of Physicians and Surgeons of Ontario were here. They said they warned him what would happen if he announced changes on the Canadian Medical Protective Association funding, and because I have some notion and remembrance of how that in fact came into practice, I'd ask that you talk a little bit about the discussions there have been and the issue that's been raised around the CMPA premiums. The government got involved, as you said in your remarks, regarding some negotiations. What's the best way, do you think, that those insurance premiums should be paid, and do you think there's a role for government at all?

The second question I would have on that is, there's also been—and yesterday the parliamentary assistant, who's not here today, and I regret that, asked a question about the size of the reserve and the actuarial component. Now, none of us here is expert on that, but I think you're more familiar with it than any of us. What do you believe is the right amount and how's that determined as to what's appropriately well funded or properly funded as opposed to excessively funded for something like the Canadian Medical Protective Association?

Dr Gray: You've asked two questions and I'll try to answer each of them briefly. You've asked, what's the best way to pay and should government be involved? In fact, government pays no matter what way you look at it. We have a closed payment loop. The government is the sole insurer of medical services in this province, so physicians are remunerated virtually exclusively through the government. So whether the government pays the premiums directly or whether it pays them through the fee schedule, OHIP pays, one way or the other.

Worldwide experience has shown that in fact the best way is to reimburse the premiums directly. That is the experience in Europe. That's the experience in fact in well over half the physicians now in the United States who work in HMOs, in university settings and so on. It is not the case where physicians work under fee-for-service, and in fact the premiums are almost astronomical in the United States, \$100,000 or more, and they have the ability to adjust their fees if the premiums go up. We do not have that ability, so I think the fairest and most equitable way to deal with this is for government to pay the premiums directly, as I believe, and you can check this with the minister, the government is doing with midwives now.

As far as the size of the reserves, this is a difficult question. I think there's a lot of misunderstanding of what reserves are. This is not a pool of money that's there for the use of the physicians. It's a pool of money that's there to compensate patients for years and years. As I mentioned in the presentation, we don't know how long it will take for a suit to come to court and to be finished.

The experience in the United States: Commercial insurers move in and out and leave patients and physicians high and dry. We had a similar experience in Quebec in the 1980s. A company called GESTAS in fact was lobbying very hard to become involved in the provision of malpractice insurance in Ontario. They ran into financial difficulty, left the patients and the doctors high and dry.

Mrs Caplan: And the question on consultation?

Dr Gray: CMPA acts responsibly.

The Chair: Thank you very much, doctor. Thank you, Ms Caplan.

Mrs Caplan: And the issue on compensation?

The Chair: Ms Lankin.

Ms Lankin: I have two questions for you. The first is with respect to the issue you raised on the privacy concerns in the legislation. The minister has in fact told us that nothing has changed in this legislation, it's the

same as it was before, there's nothing we should be concerned about, it's completely a red herring, and yet you say there has been a significant change. I would really like you to explain that difference to us.

The second question: You've made some very clear opening statements about even in the three weeks that you've had, you've probably missed some things in this bill and it's impossible to cover all the concerns in the time allotted today. So we don't even know all the concerns that you have with respect to this bill. You've said that the bill is radical, that it's not completely supported by the public, that the privacy concerns are not a red herring and that doctors in fact are being scapegoated. While Ms Ecker disagreed with me this morning, I see headlines like, "Ontario Minister Attacks Doctors in Justifying Bill's Sweeping Powers," "Minister Uses Attack to Defend Bills."

I think we need a process in which we can hear from people appropriately and democratically about the bill. A lot of other groups have suggested that we need to stop this process and split the bills and take a bit more time. I would like your comments on that as well.

Dr Warrack: If I could just go back to one question before about the consultation from government and the minister, when we were having some discussions with the minister early, we felt that we were negotiating. He indicated that there was some legislation pending. We asked him whether or not we would be able to have access to that legislation prior to its being tabled and he said he would think about it. Well, I guess he thought about it and said no, because we had no prior knowledge of what was included in the legislation.

Mrs Caplan: That's outrageous.

Dr Warrack: Regarding the splitting of the legislation, certainly these things are so complex that, in my mind, almost every schedule could be a different process because there are so many far-reaching proposals in there. Certainly I think that we would support any call to split the legislation up and have longer hearings and have proper debate, rather than even this three-week process.

Regarding privacy, I'd like Bill to answer that.

Dr Orovan: With respect to privacy, I think we would profoundly disagree with the minister that there are no changes. There are major changes, at least two of which are that under the existing legislation, inspectors can be appointed by the College of Physicians and Surgeons to the Medical Review Committee. This legislation permits the minister or the general manager of OHIP to appoint more inspectors, without consultation with the college and without any legislative or any remarks in the bill about what their competence might be. So there's a huge quantitative difference. In addition to that, there's a major qualitative difference. Not only do these new inspectors acquire all the powers that the existing MRC inspectors do, but the provision for reasonable grounds has been removed. Now the minister or the general manager of OHIP can direct these inspectors into any physician's practice without any reasonable grounds to believe there's been any sort of wrongdoing.

In addition to that, the bill, in its proposed form, allows the general manager of OHIP or the minister him-

self to see the entire medical record of any patient that he or she may wish at any time. That's a dramatic new power the minister has given to himself under this bill.

Mrs Caplan: And if he inadvertently discloses?

Ms Lankin: No liability.
Mrs Caplan: Outrageous.

The Chair: Thank you very much, doctors. We appreciate your involvement in our process.

The committee stands in recess until 1 o'clock.

The committee recessed from 1158 to 1303.

Mrs Caplan: I have two points I'd like to make. I don't think it's a point of order, but it is something that I think should be on the record. I made the request that the minister table with this committee any amendments he had as they related to the health sections of the bill. The minister yesterday said that he would do that. There was a press release yesterday on a proposed amendment to the bill as it related to the restructuring commission. We've seen no amendment, and I'd ask, Mr Chair, if you would notify the minister that we would expect to see that and any other amendments today, if possible.

I think that since he made the commitment that we would have those amendments before committee so that people coming forward could know what he intends to do as far as changes to this bill are concerned, it is important that he keep his word and table those amendments as soon as he has announced them or in fact as soon as he has agreed to them. That's point 1.

The second point is that I've been a member here for 10 years, I have served on many committees and I've served as committee Chair. I cannot remember an occasion that a bill has been in public hearings without having any leadership from the government sitting at the table, either the minister himself or herself or the parliamentary assistant. I think that it is complicated, because this bill touches so many ministries and so many areas, the government maybe deciding who should have carriage of this bill, but in fact there's nobody here on behalf of Mr Eves, there is nobody here in the chair next to the research officer and the Chair of this committee on behalf of the Minister of Health, and frankly even the parliamentary assistant, who is a member of this committee, isn't here.

The message that sends out is that the government is not listening. To have some political staffers sitting in the audience I think is an insult to the people who are coming and making presentations, who are expecting that someone in elected office will have carriage of this bill and that they will be present at these hearings. I wanted to put that on the record. I'm not going to take very much time, but I would hope that the minister and the government would reconsider the way they are conducting these hearings.

The Chair: I will pass those comments along to the minister.

Mr John R. Baird (Nepean): On the same point— The Chair: No, I don't want to get into a debate about this. We're going to get on with the first presenter.

TORONTO MAYOR'S COMMITTEE ON AGING

The Chair: From the city of Toronto, the Toronto Mayor's Committee on Aging. If you would introduce yourselves, please, for Hansard, you have half an hour. Any time you leave for questions will be divided up at the end, beginning with the Liberals. Welcome.

Ms Lois Neely: All right, I'll start. I'm Lois Neely, the chair of the Toronto Mayor's Committee on Aging. As to my experience in this field, for 20 years I was administrator of a long-term-care facility for 75 seniors. I also served on the Ontario Advisory Council on Senior Citizens. With me I have Isador Milton, who is a pharmacist and the chair of our drug education committee; Margaret Bryce is coordinator of the Toronto Mayor's Committee on Aging.

Mr Chair, honourable members, the Toronto Mayor's Committee on Aging wishes to comment on two parts of this bill: the proposal to charge user fees for the Ontario drug benefit plan, as outlined in schedule G; and the proposal to charge user fees for people who are unable to leave hospital because they have nowhere to go, as outlined in schedule H.

First, our comments on the changes to the drug plan: The Toronto Mayor's Committee on Aging believes that drug therapy is an important component of our health care system. Drugs are often the therapy of choice to manage chronic conditions such as heart and blood vessel disease, arthritis and diabetes. These therapies permit the senior to live a relatively independent and productive life. The Toronto Mayor's Committee on Aging believes that all medically necessary therapies, including drugs, should be available without cost to the senior user.

Seniors remember when insurance for physician and hospital care was not universal. They remember that some people with low incomes did not receive coverage because they had to register to be exempt from premiums. The TMCA is concerned that the implementation of this program has not yet been designed and that some people will not receive the drugs they need.

We believe that it will be very difficult for some people who receive their income in irregular amounts to pay for their first \$100 of medications each year. We're told that there are at least 35,000 people on the Ontario drug benefit plan who receive over 100 prescriptions a year. It will be very difficult for them to pay the copayment of more than \$700 which will be required under this bill

We believe that the assessment for eligibility for the program should be made as simple as possible. Seniors on fixed incomes should not have to make an annual report of their income but should be qualified automatically through their income tax returns. We believe that benefits and charges should apply for a calendar year and not on the government's fiscal year. What do ordinary people know about a year ending on March 31?

We are concerned about the loss of privacy inherent in implementing this program through the pharmacies. We do not believe that store employees should have access to information about a senior's income or lack of income. We had four public meetings in 1993 on the issue of user fees for drugs. When low- and moderate-income seniors were asked what they would do if they could not afford to pay for their drugs, they said that they would continue to take the pills which are necessary to keep them alive and forgo the ones which merely alleviate pain. We believe that this will have very unfortunate consequences for the health of these people.

The Toronto Mayor's Committee on Aging believes that the government should continue to investigate other ways to save money on drugs before considering costsharing. We are impressed by the savings that the homes for the aged operated by Metropolitan Toronto have made by operating a central pharmacy and by careful review of the medication of the residents. This resulted in happier residents, because seniors were no longer drugged into lethargy. But we're very disheartened that the Ministry of Health has chosen not to fund this program and that the pharmacy may be contracted out to the private sector, which will charge higher dispensing fees.

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The Toronto Mayor's Committee on Aging believes that the cost of the drug benefit plan cannot be contained unless physicians are a party to changes in the plan. One member said that he was insulted by the idea that consumers and pharmacists were responsible for abuses to the system. The government must have the will to work with the Ontario Medical Association to make changes.

We recently held a forum on seniors and drugs. You'll be able to watch it this week on Rogers TV, Friday the 22nd at 7 pm, and again on December 30 at 9 pm. We held this forum because we were concerned about the very dangerous overuse of drugs in the seniors population. Studies consistently estimate that between 20% and 30% of admissions of older people to hospitals are caused by adverse drug reactions.

We believe the government should work together with the Ontario Medical Association, seniors' organizations, pharmacists and community groups in developing educational programs which will decrease the instance of poisoning of seniors by prescribed and over-the-counter medications. This will ultimately save money for the Ontario drug benefit plan and the Ontario health insurance plan.

The Toronto Mayor's Committee on Aging is concerned that the government is proceeding with legislation to implement cost-sharing. The period of public discussion has been very short. There is no public consensus that cost-sharing is either necessary or desirable.

The TMCA is concerned about the divergence between the statements by the government during the election campaign and the policies contained in this bill. During the election campaign, the Premier and candidates for the Progressive Conservative Party promised that there would be no user fees in the health care system and no cutbacks in services to seniors and people with disabilities.

The Toronto Mayor's Committee on Aging believes that it could make a useful contribution to the discussion about changes to the plan, that there are other such organizations that could help you with practical and creative solutions. We believe that these ideas should be considered before you move to charge seniors for their drugs.

I would now like to turn to the proposal to charge people to stay in hospital while they are awaiting transfer to a transitional-care, long-term-care or chronic-care hospital. This proposal defies common sense. People do not want to stay in hospital if there's an appropriate place for them in the community.

The Toronto Mayor's Committee on Aging is a member of the Task Group on Transitional Care, which has documented the serious consequences of premature discharge of seniors from the hospital and which argues for the funding of beds for transitional care. The recently published report of the Metropolitan Toronto District Health Council on hospital restructuring has in fact taken the advice of the task group and recommends that transitional care beds be established in all but one adult general care hospital in Metro.

The restructuring report also estimates that 1,180 new long-term-care beds will be required in the next four years in Metropolitan Toronto, just to accommodate the restructuring. With the waiting list for long-term care in Metro standing right now at 3,500 and the vacancy rate consistently less than 1%, it seems that there will always be someone appropriate to take up any facility bed which is made available.

We note that residents of chronic-care hospitals do not have to pay for room and board for the first 60 days. Can we charge these same people in acute-care hospitals? We also note that Ministry of Health regulations force a home for the aged or nursing home to discharge a resident after 21 days in hospital. Will these same people be charged for refusing to go to a home when there is no bed to go to?

The funding for homes for the aged and nursing homes has been constrained, and further cutbacks are proposed. Municipalities, including Metro Toronto, are considering divesting homes for the aged, because of the cutbacks to municipalities, and Home Care has capped admissions to the program. The long-term-care sector is becoming smaller. It cannot meet the demand to place people who are ready to leave the hospital.

Until the charitable organizations and municipalities are able to provide enough beds in homes for the aged and nursing homes, it is both nonsensical and heartless to force people to leave the hospital before appropriate care is available.

The Toronto Mayor's Committee on Aging is willing to assist in any way in developing appropriate policies to meet the needs of seniors.

Isador Milton is a retired pharmacist and chair of our drug education committee. Do you have something you'd like to add to what I've said, about the drug problem especially?

Mr Isador Milton: I wish it were that simple, that I could just add to it, but I was informed of this hearing and our place in it as late as about 8:30 last evening. I drew up what my feelings are, as a pharmacist and as a citizen of Ontario and of Toronto, specifically on the proposal to introduce user fees.

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As the chair of the work group on drug education of the Toronto Mayor's Committee on Aging, I have certain views about this based on some of the discussions we had at the committee. The decision of this government to introduce the so-called user fees into the Ontario drug benefit program is being seriously called into question by the Toronto Mayor's Committee on Aging, as you have just heard quite extensively from our chair, Lois Neely. This is obviously of great concern to our committee, which, as its name implies, is committed to the welfare of Toronto's senior citizens.

Bill 26, the subject of this hearing, encompasses several laws which are going to affect seniors very adversely, to which our committee is strongly opposed. I am here as one of the members of the Toronto Mayor's Committee on Aging to express this opposition. I'm going to express our strong opposition to the changes in the Ontario drug benefit program specifically, which is imposing punishing user fees on the already economically disadvantaged seniors of our city and our province.

I and our committee are not interested in coming to a hearing such as this simply to bash the Harris government, but we are deeply interested in monitoring any and all government initiatives, of whatever political stripe, which directly or indirectly affect the health and welfare of our seniors. We have a duty to assist the mayor and the council of the city of Toronto in maintaining and improving the quality of life of its senior citizens. There can be no doubt that the wellbeing of the seniors of our city is of tremendous importance to the wellbeing of the city of Toronto and thus of the whole province, economically, socially and culturally. Let us look at the economics of this huge user fee, as proposed.

The Ontario drug benefit program was introduced in 1974, providing a government-approved list of prescription drugs free of charge. To seniors 65 years of age or older, this was available. Many of our seniors who turned 65 during that period and became beneficiaries of that program are still alive and still getting their prescriptions filled free of charge.

According to the apparent philosophy of this government, this fact is contributing to the economic difficulties being faced by the province. What is their answer? Punish them for living so long by depriving them of their economic ability to continue with their medication.

What about the economic, social and cultural contributions they have been able to make to our society during these extended years of their lives? A strong case can be made that a large percentage of these seniors is alive today precisely because they have been taking medications which are consistently and increasingly safer and more effective. It is only natural and to be expected that the cost of the program would increase, but isn't there a strong probability that this cost is substantially offset by the value of the knowledge, skills, volunteerism, assistance with child care, charitable donations etc etc which seniors have been able to give to society as a result of living, and being well, longer?

There is no question that the imposition of this user fee will achieve the ill-conceived, short-sighted objective of this government: There will be a sharp decline in the use of the program, and there will thus be a so-called saving. But this could prove to be a pyrrhic victory for the government. Seniors will be hit with a double whammy. On the one hand, there will be a decline in longevity because the majority of seniors will not be able to afford the fee, and the resulting lack of medication will inevitably lead to earlier deaths. On the other hand, those seniors who survive will probably at various times wind up in acute-care beds where, in addition to the hospital costs, the government will also have to pay for the medications provided by the hospitals, which they were getting for free as ambulatory patients at home.

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That brings up a point often overlooked when calculating the cost of the drug program: Modern pharmaceuticals shorten and often eliminate entirely the necessity for hospitalization. Can you contemplate with equanimity the thought of seniors being warehoused in psychiatric institutions who formerly lived normal lives at home on the free medication they received under the Ontario drug benefit program? Can we really put a dollar value on a healthy senior citizenry in terms of its positive effect on society, the type of society that attracts industry, that type of society that attracts investment, the type of society that Ontario still is in spite of ideologically driven attacks on it?

The Toronto Mayor's Committee on Aging is inalterably opposed to this user fee because of its tremendous attack on the economic wellbeing of our senior citizens. Because many seniors take several medications, they can expect to have to come up with up to \$30 a month on top of the \$100 deductible, depending on the number of drugs they must take. At \$6.11 per prescription, it is an unconscionable burden. It is quite possible that those earning less than \$16,000 a year, who will be forced to pay a \$2-per-prescription fee, will be just as severely affected.

The Toronto Mayor's Committee on Aging is inalterably opposed to Bill 26 in its entirety. Although it is proposed by a democratically elected government, the powers it confers on the various ministers and the manner in which it is being introduced run counter to democratic principles.

Thank you very much for listening.

Ms Neely: Thank you, Isador. May I just add, off the cuff, that as an administrator looking after old people, which was my career job all my life, I saw so much overmedicating of seniors. It really upsets me today to see seniors targeted as the cause of the escalating cost of health insurance, because we have to hand that responsibility back to the medical profession.

I saw—I could not believe—one gentleman who was a neighbour in an apartment where I was living. He had just come back from hospital, and I met him coming out of the pharmacy with a bagful of medications. He told me he had 38 prescriptions he had come home from hospital with—38 prescriptions. I couldn't believe it. I went straight to the druggist, who I knew very well, and said: "He tells me has this. Is that so?" He said, "Yes, I just filled 38 prescriptions."

There has to be better coordination among our medical teams in hospitals. That wasn't the senior's fault. Incidentally, he didn't live very long. How could any one person manage 38 prescriptions? Impossible.

The other cause we see, and we pointed this out in our newsletter, has been the rapidly escalating cost of drugs, particularly the cardiovascular drugs, which have gone up 240% in cost, for whatever reason, whether it was Bill C-91 under the Mulroney government—whatever reason. But we're disturbed that seniors are getting targeted. Is it, as Isador has pointed out, because we're living too long? Is that what it's all about?

Thank you very much for this time.

Mrs Caplan: First of all, the government wanted this bill completely passed before Christmas. That was their original intent. They announced that on the day they tabled the bill in the House. You know how that happened? I can't apologize for them, for the fact that you've had so little notice on this bill, but there wasn't even time for an ad in the newspapers. There are many people who do not know what's going on, and we've been very concerned that in fact that is the government's agenda.

I'm going to ask you a very important question. I have a copy of—remember this? It arrived at your doorstep; it's the Common Sense Revolution document. In this, Harris and the Conservative government said, "Our cuts will not hurt seniors and the disabled." They said, "No new user fees." They said not one cent, "Not one penny will be cut from health care." They promised to protect health care. In fact, I remember Mike Harris standing up and saying, "I have no plan to close hospitals."

Do you think that Bill 26 keeps those promises, and if it doesn't, do you think maybe that's the reason they don't want anybody to know what they're doing?

Ms Neely: We referred to that, that we see divergence here and it disturbs us. We're grateful that you did notify us and give us this time to present what we've said.

Mrs Caplan: Do you think the seniors in this province believe, if they knew what was going on in this bill, that Mike Harris is doing what he said he would do and keeping his promises?

Ms Neely: We're representing the seniors in the city of Toronto. We're speaking for them.

Mrs Caplan: And many of those seniors voted for them. Do you believe that the seniors in the city of Toronto think that Mike Harris is doing what they thought he was going to do when they voted for him?

Ms Neely: We've expressed our concern. This is our concern we're registering now.

Mrs Caplan: Good concern. Thank you.

Ms Lankin: I did hear you express a concern that you hadn't had a lot of time to understand the full ramifications of the bill but you appreciate the opportunity of being here. A number of other groups that have come forward have had similar problems in terms of getting the information, getting access to it and understanding it, and have raised this as a real concern and a real problem with respect to the process of public input on the bill. There has also been a growing move on the part of presenters

to suggest that this bill really should be split appropriately into sections and dealt with in the normal course of events and not pushed through so quickly.

You've set out your concerns, but I need to ask you, what's your preferred route of dealing with those? A lot of work would have to be done to take your general concerns and try and turn them into specific amendments or understand how they impact on three or four different schedules under the act. While you've made a general comment, it applies to hospitals as well as independent health facilities as well as the drug plan. Do you think the act can be amended and do you believe there's time in the process to do that, or would you support the call to split the bill and to spend a bit more time working through these amendments?

Ms Neely: I think we would support that because there needs to be a very well-organized program in place before you put through what they plan to do, as we understand this bill, particularly as the drug benefits go. This is a very far-reaching and very devastating situation for seniors.

Ms Lankin: Do I have time for one more question, Mr Chair?

The Chair: A short one.

Ms Lankin: That's always a challenge.

With respect to the drug benefit program, government members on this committee have asked a number of people: "Why is Ontario different? Every other province has user fees or copayments. Why is it different here?" In your experience in liaising with other seniors' organizations, have you looked at the effect of those copayment structures in other provinces? Do they prohibit lower-income seniors from accessing necessary drugs? Do they have to make the kind of choices that you've talked about?

Mr Milton: In view of what you agree is the impossibly short period of time we've been given to prepare for this particular hearing, I can't honestly answer that question in the affirmative, because I have not been able to measure that or consider that.

But your suggestion of splitting the bill, which we support heartily, has so many positive values to it. For example, if they address the question of the Ontario drug benefit program separately, maybe that would give them an opportunity to meet with and consult with the pharmacists' association. One small example of what costs can be garnered by a rational approach to the problem is this small matter of what is called a PC-34. A PC-34 entitles the patient to receive a brand-name drug instead of a generic drug. If the patient requests it, the doctor simply has to fill out this green form. Immediately the government is mandated to pay a greater price for that similar drug under PC-34. Now, that used to be. I know there have been changes, but that's just one example.

The Chair: Thank you very much, sir. We're on a very tight time schedule here. The government, please. Mr Clement.

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Mr Clement: I'd like to thank the presenters for their submissions. You've certainly put a lot of thought into it

and it's quite articulate from your perspective. We've seen a lot of presenters who have actually put a lot of time into it and were able to do so in the time constraints available. I thank you for being so thoughtful.

I just want to talk a bit more about the Ontario drug benefit situation because it's obviously something that affects a great many people in Ontario. We've had a plan whose expenditures have tripled in the last 10 years. They've gone up by a factor of three in terms of their expenditures. For the government and for taxpayers there always has to be a balance between giving out services and being responsible to the taxpayers and dealing with things like overmedication as well, which you raised, and I thought you were very cogent on that point.

My question is: If we had a choice between cost sharing and delisting, and surely we don't want to start delisting some of these drugs, if you were in our shoes how would you balance it out?

Ms Neely: That's the question?

Mr Clement: Yes. How would you balance it out if you had to make some of the tough choices that governments always have to make?

Mr Milton: As a first thought, I don't know how much thought the government gave before considering deletions or other cost-cutting measures of that nature. They have considered internal cost cutting, administrative cost cutting, like one that I've just mentioned. Also, they have to think in terms of the whole picture, as I've tried to emphasize, the social costs of deleting or constraining medication for seniors.

After all, there could be serious discussions, as Lois has mentioned, with the medical profession regarding overprescribing, and we still don't know whether that is patient-driven really, as they claim, or whether it is physician-driven. It may be a combination of both. But I think that the speed and the hurry with which this was prepared indicates, to us anyway, that still not enough thought has been poured into this whole matter as to the outcome of constricting or constraining or otherwise affecting the ability of the seniors to get medication.

You must remember this. It's not only a question of seniors coming on the stream now who are going to get this. What about the seniors who have been on this medication for many years, which would represent a tremendous hazard in suddenly cutting them off because they can't afford it. Cutting off is sometimes just as deleterious as not getting it in the first place.

The Chair: Thank you very much, sir. We appreciate your attendance here this afternoon and your interest in our process. Have a good day.

Ms Lankin: Mr Chairman, could I raise a concern, please?

The Chair: Is it a point of order?

Ms Lankin: It is a concern and I think it would be unusual if you wouldn't at least hear me out on this. It's a request that I would like to make of you as Chair.

As you know, this bill passed second reading a week ago tonight, on Tuesday, December 12, and it was the next day after that, I think, that the subcommittee of the full general government committee met to look at the process for people being scheduled for hearings. As I raised yesterday as an example, there was a woman in the audience who had called on Thursday for the Toronto hearings and had been told already that all the spaces were full and was unable to get a spot.

As you well know, we have been informed this morning by the Clerk's office that the 274 hearing spaces for the two subcommittees in the 11 communities that we'll be travelling to in the two weeks in January are already oversubscribed: 274 spots, and as of this morning there were 290 applicants, and that doesn't add the calls that came in today. Every one but one of the 11 communities, 10 out of the 11 communities, are already oversubscribed.

Given that we have a huge waiting list here in Toronto, a huge waiting list already starting in the out-of-town hearings—and may I add that the ads have not even gone in the papers yet for the out-of-town hearings—I would sincerely request that you as Chair of this committee convey this concern and problem to the government House leader and to the Minister of Finance responsible for this bill and request that consideration be given to either appropriate splitting of the bill or further hearings on this matter.

The Chair: Let me just comment on that, and I'll pass that question along. I do have to explain, though, that the decision about the length of the hearings and the number of people in the cities and so on was agreed on by the three House leaders. It wasn't something that the government—

Ms Lankin: I assure you that our House leader will agree to extended hearings.

Mr Clement: On a point of order, Mr Chair-

Mrs Caplan: I'd like to speak to that for a minute.

The Chair: No, we're here for public hearings. We're not in here to debate what's going on between the parties. We will take that up later at the subcommittee level. With due respect to the people who have come here to make presentations, we'll deal with that later.

Mrs Caplan: Could I request that the clerk table every day the list of those people who have been denied the opportunity because the waiting lists are full, in other words, because we have a full wait list?

The Chair: You're out of order.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair: Could I have the next presenters, please, the people from OPSEU. Thank you very much for coming to our presentation this afternoon. You have a half-hour to use as you see fit. Any time that's left over at the end for questions, the questioning will begin with the government. The floor is yours.

Mr Warren Thomas: Good afternoon. My name is Smokey Thomas and I work at the Kingston Psychiatric Hospital. I'm a registered practical nurse there. I'm also an executive board member of the Ontario Public Service Employees Union and I'm sitting in today for our president Leah Casselman. With me is Tracy Musset who, prior to joining the staff at OPSEU, worked at a community health care agency.

Our democratic union currently represents 105,000 members who will be profoundly affected by this bill. Approximately 20,000 of our members work in the health sector in hospitals, community agencies, long-term care facilities, public laboratories and as ambulance attendants. OPSEU welcomes this opportunity to present our concerns about Bill 26, the Savings and Restructuring Act, 1995.

These public hearings almost didn't occur and we're obviously pleased that they're happening. If it hadn't been for the dramatic tactics by opposition MPPs we wouldn't be here today. We appreciate that their actions were born out of frustration and anger.

Everyone who has had the opportunity to review this bill is frustrated and angry, furious in fact, over the government's proposed changes and the actions of a deceitful government. The government has shown blatant disrespect for the public and for democracy in assuming that they could ram this huge omnibus bill through. Their actions insult the intelligence of the Ontario public.

This bill is unprecedented in both size and scope. It's not just a housekeeping bill and it's not just a toolbox for implementing the economic statement. It gives this government extraordinary and unnecessary new powers. The omnibus bill repeals two acts, creates three new ones and amends 44 other pieces of legislation. This is not one bill but many. It affects municipalities and the environment, civil servants' pensions and the collective bargaining process, health and natural resources.

Every single part of this bill introduces fundamental changes. Every single schedule should have received individual attention, consideration and consultation in an open, democratic process. Bill 26 proposes changes which will destroy government accountability in many areas where it needs to be most accountable.

We are obviously disappointed about the process, or lack of process, regarding the introduction of this legislation. We are very shaken by the content. We are alarmed by the extent to which Bill 26 will impact us and our families and our communities, especially with regard to health. What Bill 26 does to our health care system and to this province is enough to make you sick.

Schedule F of the omnibus bill amends four pieces of health-related legislation. Amendments to the Health Care Act replace the Ontario Council on Health with a new body, the Health Services Restructuring Commission. The mandate of the Ontario Council on Health was to advise the minister on health matters and the needs of the people of Ontario. This new commission is to carry out the minister's bidding, performing all duties assigned to it with immunity.

At the same time that the Minister of Health insists that community planning bodies are the eyes, ears and conscience of a community, his appointees will be his muscle and teeth, a bully squad. He claims that the commission's job is to bolster community-based planning. While to "bolster" may mean to promote, strengthen or to celebrate, that's clearly not this government's intent.

The minister says the commission is needed because the 60 communities that are involved in hospital restructuring studies are not doing implementation planning, but they are, or they would be if they hadn't been told to get their studies in with or without public consultation.

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This government obviously feels that the minister's bullies can implement the changes faster and cheaper. I read this morning that his bullies have four years to close our hospitals.

Across Ontario OPSEU members are participating on hospital operating planning committees, trying to add their experience and expertise to the planning process. I'm part of a coalition in Kingston that brings people together from all parts of the community, and we're looking at how all of us will contribute to and benefit from real planning and real debate. Imagine, if you will, labour, local business people and politicians realizing that we all live, work and play and spend in the same neighbourhood.

The Minister of Health has said that the commission will operate at arm's length from the government, but it's appointed by the government, will be assigned duties by the government and will report to the government. The proposed changes to the Ministry of Health Act makes it clear that the needs of the people of Ontario are secondary to the agenda of this government.

Changes to the Public Hospitals Act, along with other parts of Bill 26, suggest new roles for the Minister of Health: hospital administrator, doctor, pharmacist, loan shark and mind reader. He'll run hospitals, he'll decide when, how much and under what conditions our hospitals will be funded. He'll impose the terms of the funding and will amend or remove those conditions and impose new ones. He'll direct a hospital to cease operating or to provide a service or not provide a service. He'll order hospitals to merge.

The Minister of Health can make any direction related to a hospital that he wants as long as he considers it to be in the public interest to do so. Under this bill he will determine what is in our interest. He will supposedly know and understand, without having to ask anyone, what the public thinks, wants and values. We are supposed to believe that his interests are now our interests when it comes to health care.

This bill reveals some of his interests. The minister, the cabinet and all of his bullies will be protected from any legal proceeding as a result of their decisions. The public may be put at risk, but even with balanced-budget legislation, the minister's salary will not be.

Investigators previously appointed by the government to report on the quality of management and the quality of care now will be assigned to look into any matter relating to a hospital.

Under the new legislation a supervisor can be sent into a hospital with no connection to an investigator's report. The supervisor will be dispatched by this government, will report to this government, will respond to and carry out every direction of this government, including the direction to close a hospital— more bullies protected from personal liability or responsibility, as is anyone who is assigned ministerial power.

To run these hospitals, the minister will need and under this bill receives sweeping powers to regulate the purchase and disposition of hospital assets and the ownership, custody, use, disclosure, retention and disposal of medical records.

The minister is given the power to define services, a power he needs to unilaterally deinsure services, redefine what is medically necessary and introduce user fees.

Why does the Minister of Health require this unrestrained power to close hospitals without public hearings and without giving communities the right to appeal to a higher authority?

Why does a government that believes in less government want the authority to interfere with the operations and property of a hospital?

Why does this government need the authority to use, disclose, retain and dispose of medical records?

Changes to the Private Hospitals Act will allow the Minister of Health to revoke a licence and reduce or terminate funding without notice or access to appeal.

He can step in and run the hospital for six months. As in the Public Hospitals Act, there is no requirement for public consultation, there is no accountability to the public.

Changes to the Independent Health Facilities Act amend language which is crucial to our maintaining a universal, accessible, not-for-profit health care system in Ontario.

Independent health facilities can be expanded far beyond their present use and will be permitted to charge fees to insured persons: extra billing.

The definitions for "health care" and "health record" are being repealed, and "insured service" is changed to just "service."

Whose interest does it serve to take the words "health" and "insured" out of the legislation that affects the provincial insurance plan that covers our health care? That becomes clearer when we see in this bill the government's intent to de-insure services, introduce user fees and privatize our health care system. The motive for amending this act is the government's intent to privatize, to sell off our health care system.

This bill repeals the language that directs the minister to give preference to Canadian-owned non-profit facilities and to solicit proposals for new facilities from the general public. Under changes included in the omnibus bill, the Minister of Health will be able to selectively request proposals from foreign firms that want to make money from our health care programs. This government claims to be interested in fair competition, but these amendments and their refusal to allow hospital laboratories to fairly compete for business indicate otherwise.

Public tendering was invented to ensure fair treatment of bidders and the public. Its primary role is to remove the possibility of sweetheart deals and corruption of government by private interests. This is a scandal waiting to happen. The amendments in Bill 26 close down the public tendering process and open up the door to rapid advancement of the American-style health system, where five well-connected megacorporations control a system

that costs more than ours and leaves millions of children without health care. The American health care system industry boasts record profits even while studies show that those profits come at the expense of the patients and workers.

American corporations are dying to get their hands on our health care system. They call it the "unopened oyster," and care for the elderly is referred to as "mining grey gold."

Profit has no place in the provision of health care services, especially at a time when billions of dollars are being removed from the system. It's clear that these changes are less about putting more money into direct patient care and more about putting more money into the pockets of shareholders. In many cases these shareholders will be handpicked by the Minister of Health.

Schedule G amends three more pieces of legislation to introduce copayments and deductibles for seniors and social assistance recipients, deregulate prescription drug costs, and allow the minister to collect, use or disclose personal information. Recipients of Ontario drug benefits, people with a limited income, will now pay \$2 per prescription. In addition, some will pay a deductible and then the full dispensing cost of prescriptions. The government will no longer pay the difference between what cabinet considers interchangeable products, even if the prescription calls for no substitution. The government will add and remove drugs from the list of those that will be covered by the ODB.

If we had a cabinet full of pharmacists, this might make sense, but we don't and it doesn't. As it is, we can be sure that government will be making major drug decisions based primarily on economic considerations and not health considerations.

The minister can make regulations that provide for different copayments for different classes of drugs. He can decide what clinical criteria must be met for a specified drug product. He can make regulations requiring that other drug products or therapies be considered, that a certain physician prescribe a certain drug, and that a panel of experts prescribe the use of a particular product for a particular patient. He may make regulations that treat different classes of eligible persons differently with respect to income and family status.

These changes not only represent a fundamental shift in principles and values for Ontario, but do nothing to improve the health care system. User fees, deductibles and copayments for prescription drugs will not reduce the need for prescription medicine, but will reduce the number of prescriptions filled by seniors and individuals or families with limited incomes. That doesn't mean the drugs aren't needed; they just won't be taken.

Let me tell you what happens when patients are released from psychiatric facilities and the only thing that's keeping them off the street, out of jail and out of hospital is their medication. I work at Kingston Psychiatric Hospital. Discharged patients require tremendous community support. Someone suffering from a serious mental illness may need to take as many as a dozen different medications daily. Introducing a \$2 per prescription fee will put them at risk to do harm to themselves or

others, as most patients have very limited incomes and may be unable to purchase their medications.

User fees just shift the blame for the high cost of the drug program on to victims when the responsibility lies mostly with governments, doctors and the drug companies.

1350

The bill also gives the Minister of Health the power to collect, use and disclose personal information. What is the justification for this gross violation of privacy? Why does a government which professes to believe in less government need to peek in everyone's medicine cabinet or personal records?

Bill 26 changes the name of the Prescription Drug Cost Regulation Act to the Drug Interchangeability and Dispensing Fee Act because the Minister of Health is giving away the power to regulate the price of drugs for anyone not covered by the ODB. That means the cost of prescriptions sold to people who pay for their own drugs will go up, as manufacturers will be free to determine the price for drugs. Drug prices will soar, especially in remote locations. Those who benefit from insurance plans which cover drug costs—employers and employees—will have to deal with the impact of increased premiums.

It's ironic that this government talks about opening health care up to the market and to fair competition when it comes to drugs, because they've ignored pleas to let hospital laboratories compete fairly with private labs. They've turned down the potential to save money and inject hundreds of millions of dollars into community hospitals without increasing the cost to taxpayers. It makes no sense.

It's easy to see who wins and who loses under the amendments to these acts, and in whose interest these changes are being made.

Until now, our OHIP system was required to cover all medically necessary services provided by physicians. Schedules H and I change that. The bill removes any reference to the term "medically necessary." Instead, cabinet will decide which services will be insured. These amendments give the Minister of Health authority to unilaterally define what is an insured service and what fee is payable, subject to any criteria they define, including things like geography, the practitioner, the setting and the time period in which the service is provided. Certain services may not be insured unless provided in certain facilities, like the independent health facilities this government is inviting American firms to establish.

These amendments vest complete authority and control in the Minister of Health and the cabinet to dictate the terms under which physicians provide, and we receive, medical services. Universality, availability and accessibility of health care services are at risk.

During the election campaign Ontarians heard a lot of promises, and they heard that the promises printed in over 700,000 copies of the Common Sense Revolution were sacred. The promises that voters heard were clear.

This government promised it would not cut health care spending, that health care spending will be guaranteed and that health care funding would not be touched. Their sacred book says that aid for seniors and the disabled will not be cut, that how they achieve savings will be discussed in partnership with all Ontarians, and that their four-year plan is based on four years of study, analysis and consultation with workers and ordinary Ontarians through extensive public hearings. They say that they looked at user fees, copayments and delisting services, but decided the most effective and fair method was to ask individuals to pay a fair share based on income, and that there will be no new user fees.

Mike Harris said: "The Ontario Public Service Employees Union has developed commonsense proposals. We will work with them, listening to their ideas and eliciting their help in taking action." That's not happened.

Read through this bill. Read through the 44 pieces of legislation it affects. Read through the 2,000-page compendium. Read the schedules that affect health care. Re-read their Common Sense Revolution, campaign material substituting for real policy.

Bill 26 breaks every single one of their promises. It puts our health care system at risk; it puts our people at risk. What Bill 26 does to our health care system and to this province is, quite frankly, enough to make you sick.

The Chair: Thank you. We have about three minutes per party, beginning with the government.

Mr Thomas: We didn't start till almost 20 to, so we've got more than three minutes.

Mrs Johns: I would like to start, and thank you for the presentation. As you know, we're suffering a number of demands on our health care dollars these days. Past governments have closed approximately 6,800 beds, which equals approximately 30 hospitals throughout Ontario, and in closing these beds, they never closed any of those hospitals.

We heard yesterday from three CEOs of hospitals that hospitals alone could never close hospitals, that they needed to have some other sources to be able to do that. In fact, in the Metropolitan Toronto District Health Council report, they asked for a body that would help to implement many of the community-driven decisions.

It's your stand in this article you've just given us that the restructuring commission, which was asked for by the district health council of Toronto, is not something that should be implemented. Can you comment further on that?

Mr Thomas: Toronto is only one part of Ontario.

Mrs Johns: Yes. It's the first major one that's out. In fact, there are four out now.

Mr Thomas: This commission that you're proposing is about as anti-democratic a process as you can possibly get. All it really and truly is is a licence to steal, a licence to pander, a licence to feed anybody you want. It's not democratic. There's no real community input, no real community consultation. There's not been one town hall meeting in any town that I can think of about health care issues under your government.

Mrs Johns: So you're saying that the district health council is not—

Mrs Ecker: Mr Chair, that's wrong.

Mrs Johns: The district health council isn't a community-driven process?

Mr Thomas: We've been fighting for years to try and get seats on those district health councils and it's not truly representative of the community. I'll tell you what the director—

Mrs Johns: You know they were set up by the previous government.

Mr Thomas: It doesn't change my opinion. District health councils? They weren't set up by the NDP; they were set up years and years ago; about 12, in fact.

Mrs Johns: Okay. So you think there's been no community involvement in the restructuring of hospitals throughout Ontario.

Mr Thomas: Not what we would consider real community involvement. You show me where your government's actually sat and consulted with workers. Show me. Just give me one example. I defy you.

Mrs Johns: Okay. The second question I have is, as you know, there's a specific amount of money that the drug benefit program has increased substantially in the last, I think—in the last 10 years it's tripled, and in the past, governments have said they have had to delist drugs as a result, to be able to put new drugs on or to be able to move forward with presenting new medications to people.

You have said that you don't like the idea we have of \$2 for the people who can least afford it, for people under \$16,000 and \$24,000, and \$100 after that. Would you prefer to see delisting of existing drugs, or would you like us to not add new drug therapies? What would your choice be?

Mr Thomas: How much do you think you'll really save having to set up another bureaucracy to collect that money?

The Chair: Thank you. It's time for the Liberals.

Mrs Caplan: A very impressive presentation documenting many of the concerns that have been expressed by many people.

One of the things that we have suggested to the government is that they segregate this huge, massive omnibus bill into smaller bills that could receive the kind of scrutiny across this province to allow individuals to know what is actually in here.

My question of you is twofold: Were you consulted at all by this minister, the Minister of Health, as a partner, front-line workers; second, do you support the call to sever this bill into reasonable segments and different bills that would allow for that kind of democratic scrutiny?

Mr Thomas: On the first part of your question, no, we weren't consulted at all. In fact, Mike Harris absolutely refuses to meet with the president of OPSEU. As an employer who employs over 65,000 members directly, employees, I would think that's a very irresponsible act for a CEO of any corporation or government to take. That's in my mind just not good business; it doesn't make any sense. Secondly, front-line workers, no, we weren't consulted at all. There are a lot of changes being made and they're just being made very unilaterally.

It's interesting to note that in the hospital—in the Kingston area, for example, in the Whig-Standard this morning, the call is to merge, rationalize everything else but administrations. The only people interviewed were the administrators, and they're saying: "Yes, but we've got to keep all our own management structures. But we'll lay off cleaners, we'll lay off nurses, we'll lay off maintenance workers, that kind of thing. We'll contract out." So there's a real decided shift here I think from previous governments that were trying to look after everybody to a government that just tries to look after people who make big bucks.

The second part is, absolutely. We believe it should be separated out act by act by act, and extensive public consultations, not window-dressing. They're coming to Kingston for two half-days. Six people will get to present. Give me a break. That's not public consultation, right? We probably won't even get on, but we'll give them the reception they deserve, I can guarantee you that.

Ms Lankin: I could tell from Ms Johns's questions of you that she hasn't been around long enough to realize that you certainly aren't partisan in your attacks on various ministers of Health, as I recall. It's a pleasure to see you here and I really do appreciate the time and effort that you put into the presentation.

I am struck by the fact you haven't been consulted at all, first of all, in general, that the Premier refuses to meet with the union that represents the direct employees of the government. But overall let's just talk about these bills and the Minister of Health.

You represent direct government employees who work the for the Ministry of Health, the people who do the OHIP cards, who do all the OHIP billings, who understand about where problems are and fraud in the system, if there is any, and how to get at it. You represent people who work in direct government-run psychiatric hospitals, nurses, health care aides, a whole range of employees there. You represent people who work in public hospitals, in laboratories, in private labs, in hospital labs, in community-based health care agencies, and I could go on and on

Surely you are an organization that has a breadth of knowledge and experience in the health care system and the restructuring that's going on. I just say it is stunning that you weren't consulted and had not met on this.

I was going to ask you about a couple of amendments, but I think you've made your position clear: You believe the bill should be split and we should be taking this a section at time.

Mr Thomas: I don't think this bill can be fixed. I think they should just turf it out, to be honest with you. How could you amend something that's not even democratic to somehow make it palatable, knowing that they're not going to do that, because they have a majority and they'll shove it down our throats whether we like it or not? They should at least do the decent thing and split it up and let the interested parties have input that way.

Ms Lankin: I think you've just about covered everything. I should just let you know that there are already as

of this morning 16 people who've applied for those six spaces in Kingston and the ad hasn't even gone in the paper yet. I was wrong on my numbers earlier: There are actually 316 people who've applied for 274 spots in the out-of-town hearings and the ads haven't even gone in the paper yet. I have requested that the Chair take this issue back to the government House leader and the Minister of Finance, both the issue of splitting the bills and the issue of additional time for public hearings.

Mr Thomas: We have problems right now with the government in that workers who are trying to be vocal or apply for standing are being intimidated and told not to and have had a very thinly veiled threat about their continued employment and that kind of thing. Not only is there not consultation; there is intimidation. It's a very real problem for us. I'll give you a classic example. You used to be Minister of Health.

The Chair: Thanks very much, sir.

Mr Thomas: In Kingston, they're hiring replacement workers in case we go on strike at OHIP.

The Chair: Your time is up.

Mr Thomas: They're paying them 45 bucks an hour and calling them consultants. Is that a good use of the taxpayers' money?

The Chair: Sir, your time is up.

Ms Lankin: This is important. He's talking about government intimidation and you're cutting him off, Mr Chair.

Mr Curling: This could have been law already.

The Chair: Thank you very much for your presentation. We appreciate your being here.

Just a couple of housekeeping issues for the committee: We have the revised agenda for this afternoon.

Interjections.

The Chair: The subcommittee is recessed until 2:30. The subcommittee recessed from 1405 to 1430.

The Chair: Just a couple of housekeeping items for the committee before we get on to our presenters this afternoon: You have three different things in front of you: a revised schedule of presenters for this afternoon, the white page; a yellow page which is tomorrow's lineup; and the itinerary for our trip for the two weeks in January. You can digest all of those at your leisure.

ONTARIO MEDICAL ASSOCIATION, SECTION ON DIAGNOSTIC IMAGING

The Chair: The next presenters are from the Ontario Medical Association, section on diagnostic imaging, Dr Arthur Zalev and Dr Phyllis Glanc. Welcome to our committee. You have a half-hour to use as you see fit. Any time for questions at the end will begin with the Liberals. The floor is yours.

Dr Phyllis Glanc: I'm Phyllis Glanc, one of the physicians and I'm based just across the street actually at Women's College Hospital. We're representing the OMA section on diagnostic imaging. Art Zalev is to my left.

Dr Arthur Zalev: I'm based at St Michael's Hospital down the street. I serve as university liaison to the executive of the OMA section on diagnostic imaging.

We'd like to address a number of concerns today. Our section appreciates this opportunity to appear before the committee and address some of the issues in Bill 26, particularly those proposed in the Physician Services Delivery Management Act, the Public Hospitals Act and the Independent Health Facilities Act.

Our section is a specialty section of the OMA responsible for representing the interests of Ontario's 700 diagnostic imaging radiologists. Our practice is as consultative physicians. We provide services. We are qualified specialists who have completed an accredited residency program in diagnostic radiology. This includes utilization of all modalities in imaging to portray human morphology and physiologic principles and provide medical diagnosis.

The elements of a radiologic consultation include preexamination evaluation by the referring doctor; request for a consultation; a safe patient environment in which we supervise a qualified staff. Their efforts are directed to produce a radiologic examination to give the maximum diagnostic information and the least exposure to radiation.

Diagnostic imaging is a patient care specialty. It's an important function of the radiologist to advise the referring physician about the best sequence of examinations for resolving a clinical problem quickly and with the least risk and the least cost.

The remarkable proliferation of imaging methods we've seen in recent years has enhanced our ability to visualize the human body in health and disease in ways we never before expected. Many of these tests now available, however, produce uncertainty, if not bewilderment, about their benefits, their limitations, hazards and indications. These developments have challenged physicians' abilities to use the tools at their disposal rationally and to assure that radiology as a system keeps pace with technical advances.

They've also challenged us to fulfil the responsibility of the team, which consists of radiologists, radiographers, nurses and support personnel, to provide patient care to the best of our ability. We are the stewards of the technology for establishing the level of quality that must be met in imaging studies and investigations, and also in recent years in therapeutic and interventional procedures.

Many of the factors in current developments and proposed legislation have an impact on radiologic functions. We as Ontario radiologists are prepared to meet these challenges and to assist you in government in achieving some health care objectives.

Let me turn to some initiatives that radiologists have been involved in in the past several years. These include a number of activities to promote higher quality assurance, improved quality management, increased cost-effectiveness in the delivery of health care services in this period with decreasing health dollars. The following is an indication of some of our initiatives.

We have supported the development of the Health Arts Radiation Protection Act, the HARP Act.

There've been initiatives in quality management and continuous quality improvement: The majority of the

authors of the publication Quality Management Manual for Diagnostic Imaging are Ontario radiologists.

We've taken initiatives to provide evidence-based information and criteria for use of radio-opaque contrast media.

There have been initiatives for the development of Ontario's MRI expansion program.

In standards development, Ontario radiologists have provided leadership for national standards in diagnostic imagining. These standards are now part of the Clinical Practice Parameters and Facility Standards for the independent health facilities, as issued by our provincial College of Physicians and Surgeons.

Ontario radiologists were actively involved in development of the assessment program for independent health facilities, and we cooperated with both the college and the Ministry of Health in this effort.

These developments, I might add, were based on a radiology peer review program of the college and this preceded the IHF legislation.

Other initiatives: the current efforts to develop evidence-based appropriateness criteria and guidelines for diagnostic imaging, and the current involvement of Ontario radiologists in health services research including utilization and outcomes research.

Ontario radiologists, then, have indeed accepted the challenge to promote the rational and the cost-effective use of imaging services.

I want to turn to the Physician Services Delivery Management Act. Firstly, our section is deeply concerned that government has introduced this act, which for all intent and purpose is really an ill-disguised effort to extinguish the OMA as a professional association and as the representative of 23,000 physicians in this province.

We lament that the government has felt it necessary to adopt this position. The unilateral capability of designating anything in the existing agreements allows the government to disallow all or part of the agreements that we have previously negotiated in good faith through the OMA. Government's ability to provide itself with a legal teflon vest, as it strips others of their rights, is really a marked departure from the kind of fair and reasonable government to which Ontarians are accustomed.

This is peacetime conscription. It's the equivalent of conscription in wartime and I don't see an external aggressor on the horizon.

What makes this direction more troubling is the fact that every other government in the country is interested in having an agreement with its provincial medical association. We just heard last Friday that the Health minister in Alberta and the Alberta Medical Association signed a tentative three-year agreement. This agreement achieves many of the same principles that were being discussed here in Ontario.

Many of the health care elements of Bill 26 are premised on the basis that health reform can only occur by legal fiat. We don't believe that, and we don't believe they will serve the needs of the health care system or the patients who are seeking reasonable access to modern health care services. Mr Klein has come to the realization

that you cannot achieve real or lasting health care reform without physicians being not only on side, but around the table as active and as full partners. Without this active involvement by means of some vehicle, such as the OMA, there can't be a health care system; there certainly can't be a quality health care system.

Our section recommends that the Minister of Health resume negotiations with the Ontario Medical Association.

I want to turn to the Public Hospitals Act amendments. These amendments allow that if a hospital board determines the hospital will cease to operate or the minister directs it to cease to operate, the board may make necessary decisions to implement the closing. These include refusal of applications for appointment, reappointment or change in hospital privileges; revocation of appointments; and cancellation or substantial alterations to hospital privileges. No hearing is required. The existing statutory safeguards contained in sections 37 to 43 do not apply. The legislation makes a dangerous break with the past because it provides immunity to the hospital and the board.

1440

Our section is deeply concerned that the delicate balance between the hospitals and the physicians who work in them is now decidedly weighted on the side of hospital administrators and boards. This will not result in the discontinuation of mutual respect between management and physicians in all cases. However, there's enough evidence right now that cooperative agreements of the past have broken down because of increasing financial pressures that all hospital managers face. There have been several cases where administrators have attempted to breach the Canada Health Act. They have done this by asking physicians to split their fees with the hospital. In the face of major decreases in funding, there have already been reported cases of administrators who have approached physicians demanding a share of their fees.

The same authority can be extended by regulations to allow a hospital board to exercise the same powers governing applications for appointment, reappointment or change in privileges; also, revocation of appointments or cancellation or alteration of privileges for conditions other than ceasing to operate the hospital. In this situation no hearing is required. Regulations may also provide that the hospital and its board are immune from liability.

Our section recommends that there is an urgent need to address this part of the legislation. It must be ensured that it is not a one-sided discussion where physicians' rights and patients' access to medical specialists are being breached in deference to the unseen fiscal agenda of any hospital management.

I want to turn to the Independent Health Facilities Act. We radiologists are the only group of medical specialists that is broadly embraced by the IHFA. We are in the unique position to provide a perspective on the value of the IHFA in its current format, as well as on the proposed amendments.

At the moment, we provide a full range of diagnostic services in independent health facilities with the excep-

tion of CT, MRI and most of the medically complicated interventional procedures. In the last fiscal year, over five million X-ray, ultrasound and nuclear medical exams were performed on outpatients in IHF clinics. This represents about 50% of all the outpatient imaging done in this province.

Among the new features contained in the IHFA amendments there are a number of items that are new. Based on the information available to us to date, they seem reasonable. Likewise, some of the ministry's IHFA policies were developed in many cases with radiologic input and are now being enshrined as a regulation. If these regulations retain their current spirit and intent, there will be no significant objection from radiologists.

Some examples:

—Greater flexibility for IHF clinic operators to add new services to existing licences; also the capability of adding new modalities as they become available. This we think addresses a major weakness of the current legislation which left many clinics frozen in the past. This is because they were required to offer services that are no longer the accepted standard of care.

—The legislation has been broadened to generally accommodate other health care providers in a manner that does not constitute a change for radiologists.

—The IHFA relocation policy developed with the involvement of the Ontario Association of Radiologists will become a regulation.

—Clinics that become the repeated subject of reassessments will be liable to cover the costs of these additional measures.

In another area of the amendments, there is a reference that the IHFA will be used to facilitate hospital restructuring. Our section hopes that the ministry will consult radiologists before making decisions on converting hospitals slated for closure into new IHFs. Consideration must be given to the existing IHF providers. They have made investments ranging from hundreds of thousands to millions of dollars in high-quality imaging clinics. Radiologists have a history of working cooperatively with the hospitals and with the Ontario Hospital Association. We feel it is important that this collaborative relationship be recognized, should these considerations I've outline arise.

Removal of Canadian preference: This is a concern to us. The government's proposals to remove the preference for Canadian applicants seeking a new IHF licence opens the way to allow large American entities to apply to replace local Ontario expertise. We question how the government will be able to enforce the same level of quality assurance provisions on foreign-owned and non-physician bodies.

Yesterday, from the news accounts, we understand that our Minister of Health attacked the OMA on a number of points, including utilization, so let me say something about utilization.

There are large amounts of American data in major publications showing that for-profit health care businesses lead directly to increased utilization. This is due to the rise of conflict-of-interest and self-referral considerations.

In diagnostic imaging there have been major studies in the US which examine imaging clinics owned by radiologists versus those which were owned by others who had no imaging training or qualifications. The conclusions of these American studies all come to the same point: that non-diagnostic imaging interests do between 1.7 and seven times more frequent examinations as opposed to physicians who refer to radiologists.

A study done by the auditing arm of the American Congress, that is, the general accounting office, showed that non-imaging interests had a much higher imaging rate for all types of radiology services. The American government report also found increased incidences of self-referral, and I want to give you some examples: MRI, three times; CT, twice; ultrasound, four and a half to five times; echocardiography, four and a half to five times; nuclear medicine, four and a half to five times; X-rays in general, two times.

A study published in the medical journal Diagnostic Imaging looked at the quality of examinations of chest, foot, ankle and spine in both radiologist-owned and self-referring facilities in Pennsylvania. Their conclusion: a strikingly high rate of diagnostically unacceptable images among those carried out in self-referring facilities.

What have Americans done about these practices? To date, 14 states have banned self-referral. We radiologists do not believe that this form of health care should be imported into Ontario.

The last item I want to bring to your attention is specific requests for proposals. The government has given itself the unusual power to issue a specific RFP. There is no consideration given to providing existing area independent health facility licence holders a first right of refusal to provide these additional services. The specified RFP does not provide any visibility into the qualification and selection phases and removes from public accountability things that one would expect to find in a government RFP process. This approach places an unparalleled amount of discretion in the hands of Health ministers and officials without conventional checks and balances. Right now there's no information about appeal mechanisms to stop a minister from ordering a specific RFP or approving a new licence as a result of holding a specific RFP.

A specific RFP is proposed for inclusion in the IHFA to provide the minister with complete discretion. He will be able to identify specific persons or companies to submit proposals to the ministry for a licence that will establish and operate an IHFA clinic. Theoretically, an individual or company could be provided with an IHFA licence with no public consultation and no disclosure. This is a step that's inconsistent with the normal open process which authorizes all forms of government approval.

For reasons of both quality assurance and utilization control, our section strongly recommends that any new diagnostic imaging licence issued should be limited to a radiologist, a qualified radiologist, so that appropriate controls are enforceable.

Our conclusions and recommendations:

Resource allocation decisions clearly constitute a major government priority. The radiologists of this province are prepared to assist these decisions and we are prepared to encourage more optimal allocation of available resources.

A stable environment, let me point out, is one of the basic prerequisites for these developments. The provision of diagnostic imaging services in this province is already more regulated than most other medical services here or in any other province.

In closing, I'd like to thank the members of the general government committee for their attention. I'd like to remind you that physicians must be part of the solution to reforming the health care system.

I hope the section on diagnostic imaging has shed some light on how we radiologists are working with key players in Ontario's health care system. I also hope that you realize we are committed to remaining a proactive and a constructive participant. Thank you.

The Chair: Thank you. We've got about three minutes per party for questions, beginning with Mrs Caplan.

1450

Mrs Caplan: Thank you very much for an excellent proposal. We had a submission yesterday from an independent group of radiologists who made very similar points to the ones that you have raised.

As you know, I share the concerns that you've raised around the removal of the Canadian not-for-profit preference and also the concern about the minister's ability, without request or proposal, without any legitimate tender process, to decide who will be able to open a new facility.

But you do raise something in here that I support, and that is the flexibility in the bill that would allow for new technologies to be admitted to existing facilities. Do you see some way, or have you thought of a way, where that flexibility could be maintained without the minister having the broad powers to open new facilities or bring in new technologies without request for proposal?

Dr Zalev: At the moment, no. However, we would certainly like to talk to the minister or ministry officials about whether this is doable.

Mrs Caplan: Have you had consultation with the minister before he brought this bill in to discuss some of your thoughts and ideas?

Dr Zalev: As a section we have not. The route for consultation has been between the minister and the OMA.

Mrs Caplan: They've already told us they weren't consulted.

Dr Zalev: And the OMA subsequently passes on the important information to the sections.

Mrs Caplan: I do believe, as I say, that it should be possible to give the flexibility for existing clinic licences to be responsive to new and changing technology without giving the minister this absolute power and no process, which could lead to what I would say is both inappropriate competition and also the kind of favouritism and questions about who's getting those licences that a public tendering process has always given the public assurance on.

I guess my last question to you is, is it your suggestion that the minister sit down with the Ontario Medical Association or with your section to hammer out some amendments to this bill that would accomplish what we're trying to do or what we'd like to see, or do you think this bill should just be segregated off into a separate piece and dealt with separately so that we would have time for full scrutiny and discussion? You know, they are planning to have this bill passed by January 29.

Dr Zalev: Radiology is certainly, we feel, a distinct section within the medical profession. I don't want to call us a distinct society, but certainly a distinct section. We would like more consultation with the minister and the ministry. Our past record shows that we have been there, participating for many years. We have learned a lot. We know a lot that we feel can go towards improving health care accessibility in this province. We would like to sit down and consult.

Ms Lankin: I'm glad you raised the issue about the powers, within the act, with respect to a hospital board's either refusal or revocation of privileges, particularly because this morning a member of the committee from the government side suggested that a board could only exercise those powers and refuse the right of appeal to a doctor when it's in the situation of a hospital closure or merger. As you quite rightly point out, that's a misunderstanding of the proposals here because under clause 32(1)(u), which is a new section being added, it sets out that regulations can provide the board with those powers under any circumstances the minister deems and that there is no appeal to physicians. That's quite extraordinary.

Let me ask you, as representatives of a specialist group: If that is to be exercised and an individual's privilege is revoked—no right of appeal—as radiologists your other means of operating might be to establish an independent health facility, a clinic, but there's no tendering process necessarily here; what happens to those individual specialists? Where are their skills utilized in this province?

Dr Zalev: If this province loses a qualified specialist, either the specialist leaves the province or the specialist finds some other means of living.

Ms Lankin: Outside of practising—

Dr Zalev: Outside of medical practice.

Ms Lankin: The other question that I wanted to ask you touches on the comments you made under the IHFA and the minister taking away the protection that we had, which was in the preference for Canadian-owned, not-for-profit, opening the door for non-Canadian-owned, for-profit operations. You talked about the inherent conflict of interest that's there and the self-referrals and how that can add to the cost.

In fact, the minister himself yesterday, in his opening comments, raised, I guess, similar concerns with respect to the fee-for-service system that physicians are on. Without using these words, he was alluding to the potential of revolving-door practices, the self-referral or the increase in the amount of business. He seems to understand it in terms of fee-for-service but doesn't seem to

understand it in terms of the inherent conflict in forprofit.

I was wondering if you could just give us a little bit more information on your views on that and also cite the references for us or provide that for us afterwards so the committee could, at our leisure, look at those American studies.

Dr Zalev: We can ask our office to send any individual on this committee references about the self-referral studies. They have been in major American journals within the last year.

I'd like to say something about referral that distinguishes our specialty from others. Almost every examination we do, the patient is referred to us by a family doctor or another specialist. We do very little in the way of generating new examinations. We might have a patient for whom we feel, on the basis of the examination the patient was referred for, something additional is required.

For example, some patients coming in for a mammogram will benefit from a breast ultrasonogram, and it might be more practical to do it there on the spot than send back a consultation report to the referring doctor and have the referring doctor send the patient in another time. But by far almost all of our examinations are referred to us. We're not generating this excess utilization that the minister has been talking about.

The Chair: Thank you, Doctor. We do have to get on to the next question. We would appreciate you sending that information to us, though, on the self-referral.

Dr Zalev: We certainly will do so.

The Chair: Send it to the clerk.

Mrs Ecker: First of all, I'd like to thank you very much for coming here and bringing your very detailed presentation with input for us. The Independent Health Facilities Act, I understand, has always had the power to refuse to renew licences based on quality costs—there's a lot of different reasons, I understand—without compensation.

Do you think that the amendments are changing that existing situation, or do they allow more quality control of IHFA facilities?

Dr Zalev: I'd like to ask my colleague Dr Glanc to answer your question.

Dr Glanc: Art may be more familiar, but at least two points where there are direct changes that I would appreciate. There has been an open appeal process where everybody can give in a submission, and now there can be just specific requests for proposals so that it is not an open area and there is this concern for elements of favouritism to enter into the playing field.

The second issue that is also of concern is that many of us operate clinics, to a greater or lesser degree profitably, but there is a significant investment; they're small businesses. Bill 26 now suggests that we could have that facility closed down tomorrow. Currently, you're permitted at least to the end of your licence, so you have some time line. That time line is now completely flexible, with a possible closure in—I suppose 24 hours would never happen, but that safeguard is gone.

So those are the two points that I would offhand state.

Dr Zalev: I'd just like to add that as far as quality control and assurance, these clinics are examined by inspection from the Ontario College of Physicians and Surgeons. We especially regard it as critical that high-quality examinations be performed on outpatients seeking radiologic studies.

The Chair: Thank you very much for your presentation, and we look forward to receiving additional information from you. We appreciate your attendance.

MICHAEL RACHLIS

The Chair: The next presenter is Michael Rachlis. Good afternoon, sir. Welcome to our committee. You have half an hour to use as you see fit. Any questions would start with the New Democratic Party.

Dr Michael Rachlis: Thank you very much. I believe the clerk is circulating a copy of my presentation to the committee. I apologize; I wasn't beaten up on the way in; I just seemed to have a run-in with my taxicab. So I apologize for this. But there may be enough doctors in the audience, real doctors, who could deal with me after my presentation.

Thank you very much for allowing me to make a presentation to the committee. I'll just introduce myself. I am a family physician; I'm also a specialist in community medicine. Although I still do a little bit of general medical practice, my main work is as a consultant in health policy, primarily to governments and health care organizations across the country.

My main message to the committee is that I feel that the government should abandon its attempt to pass this omnibus legislation, discarding some sections and promoting greater debate on others. I feel that there are some sections of this omnibus bill that are very poorly conceived and in fact are likely to promote illness and increase the cost of providing Ontarians with health care services. Other sections concern important policy matters which should be given specific open and democratic debate before they are enacted into law.

When there are so many changes to eight health statutes, it's difficult for me to focus on just a few of them in the few minutes I have to present. I do want to highlight the changes to the Ontario drug benefit plan. This is something that distresses me greatly and I think that the imposition of user charges in particular is going to harm the health of the poor. There is substantial evidence that user charges for prescription drugs as well as other health services essentially benefit the healthy and the wealthy and harm the poor and the sick. In fact, this literature was recently summarized by three of Canada's most eminent health economists, professors Robert Evans and Professor Morris Barer of the University of British Columbia and Greg Stoddart of McMaster University, along with their researcher, Vandna Bhatia, in a series of documents written for Ontario's Premier's council on health. One of their reports, It's Not the Money, It's the Principle: Why User Charges for Some Services and Not Others? contained two passages which I'd like to read which I think are particularly applicable to today's debate:

"It's hard to resist the conclusion that user fees are a way whereby payers can shift the escalating costs of drugs on to patients while avoiding politically difficult actions—addressing prescriber behaviour and the marketing practices of drug companies—that would be necessary to limit their inappropriate use."

A second passage:

"User charges in pharmacy thus provide a good example of the way in which such charges lead to increased costs of health care, by shifting the financial pressure away from those in a position to take effective action, and on to those who cannot."

The government is in an excellent position to both bargain on behalf of consumers in Ontario with the multinational pharmaceutical companies for the best deals. Consumers are in no position whatsoever in this marketplace to be effective consumers and bring their particular economic position to bear. It's just ridiculous to think that consumers individually will be able to do anything. Secondly, it's only government that could possibly deal with the tremendous problem we have of overprescribing of drugs. Government can't do it alone, obviously; it needs the cooperation of the medical profession, pharmacy and others, but government's actions are necessary, if not sufficient, to deal with this issue.

Estimates are that anywhere from a low of 3% to 5% to a high of 20% of admissions of people over the age of 55 to hospital are due to adverse reactions to prescription drugs. This obviously isn't just the responsibility of the present government; I'm afraid that all three parties share, to some extent, in this problem. There are literally thousands of Ontarians who are being killed every year by adverse reactions to prescription drugs, and they are in no way able to defend themselves from this problem. It's only with action that needs to be led by government that we can deal with this issue.

As far as dealing with the multinational pharmaceutical companies in terms of cost, it's very striking to watch what this province is attempting to do, which is deregulate the prices in the non-ODB sector, compared to what another province is doing, British Columbia. In fact, there has been quite a bit of discussion on this in the media, and there's an article in today's Globe and Mail which says that even before the most recent changes, which will be saving them more money, BC is saving \$100,000 a day in their pharmacare program through the use of what's called reference-based pricing, where pharmacists are required to substitute lower-cost but therapeutically equivalent drugs for the drugs that are prescribed. This kind of plan is exactly what this province should be thinking of, and I think that many members of this committee perhaps know that: using the government's financial clout to bargain hard with the multinational pharmaceutical companies and lower the cost of prescription drugs that way.

What the government is doing instead is passing the cost off to other sectors, and for a government that is supposedly concerned about the province's economic position, this is going to adversely affect businesses in this province, who are going to have to pick up the extra

costs of prescription drug plans. I think that if the government were really worried about the climate for business in this province, they would be doing their best to reduce the cost of health care, not just in the public sector but overall.

Other proposals in Bill 26 need more open and democratic public debate before they are passed into law. It's clear that the government is contemplating major changes in the structure and funding of Ontario's health care system. Now, I'm supposed to know something about this area—at least, people pay me to provide them with advice on health policy—and I can't figure out everything that the government might be thinking of doing with the changes that they're proposing to these eight health statutes. In some cases the intentions of the amendments are transparent, but in others they're obscure.

Just as an example, the amendments to the Ministry of Health Act and Public Hospitals Act appear to permit the establishment of regional health or hospital authorities, which are in fact being implemented in every other province. It's only Ontario that is not implementing these regional authorities. But is this what the government is intending? In other provinces, those kinds of actions have resulted in specific pieces of legislation which have been debated on their own. In fact, I tend to favour, with qualifications, that kind of policy initiative, but is that what the government's up to? I don't know. Or is this commission going to be making all the decisions?

Amendments to the Independent Health Facilities Act would allow the minister to bypass the normal requestfor-proposals process and would delete the original preference in the legislation for clinics which were nonprofit or Canadian-owned. These amendments would allow the minister, for example, to contract out all the not-for-admission surgery in Ontario to an American forprofit company. This could happen the day after the legislation gets royal assent. Now, I've heard this is not what the government is contemplating, but what is the government contemplating? I can think of many different possibilities, some of which I would agree with and would be good for Ontario's health system, others which would not. What about the amendments to the Health Care Accessibility Act, which appear to contemplate user charges for hospital services? Some of these user charges might well be contrary to the Canada Health Act. Has there been any consultation with the federal government in this regard? And so on. There are many other examples; I've given a couple.

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I think that I would add my name to the list, which is getting longer, of Ontarians who are suggesting that this omnibus bill be broken into smaller acts to facilitate public debate. There are many problems with Ontario's health care system that need remedying, and I can see why the provincial government might need greater authority to restructure Ontario's health care system. I see two former ministers of Health in the room, and I'm sure at times they would have liked greater authority to deal with the problems in the health care system. But Bill 26, I don't believe, is the appropriate method to obtain these powers.

In the Common Sense Revolution, the government, running for office at the time, promised Ontarians to cut other areas of spending "without touching a penny of health care funding." That promise has clearly been broken

The government also promised "there will be no new user fees." In fact, there was no discussion of this being Canada Health Act user fees, and there was reference in the Common Sense Revolution to Liberal policies which did not concern user fees contrary to the Canada Health Act. So as far as I'm concerned, that meant no new user fees. The word "no" was in capital letters.

So the government is clearly guilty of breaking these two key election promises. I think it's too much now to ask Ontarians to blindly trust where the government plans to go. We need more details on the government's proposals. Maybe some of them would be good, but we need to have them spelled out in more detail.

In conclusion, I would suggest the government should withdraw Bill 26. It should eliminate certain sections, like the user fees proposed for the Ontario Drug Benefit Act and the deregulation of prices under the Prescription Drug Cost Regulation Act. The government should present others in a smaller act which would clarify its true intentions.

If I may quote what is often regarded as a very radical, left-wing rag, today's Globe and Mail, "...the government may well need special tools" to deal with the issues you have to deal with. "But democracy would be better served if we had a closer look inside the tool box." I fully agree with the Globe's editorial. Maybe what's being proposed would be good for the Ontario health system, but let's see it broken down into its components and debated properly.

The Chair: Thank you. We've left about five minutes per party for questions, beginning with Ms. Lankin.

Ms Lankin: Thank you very much, Dr Rachlis. It's very good to see you and I appreciate your presentation.

You are quite right, the list of Ontarians who are demanding that this process here be stopped and the bill be split up and that we have an appropriate process is growing. We're hearing that from virtually every group that's come forward before this committee.

I agree with you that there are some changes that would probably be good and could be very helpful in the restructuring that's ahead. These do need to be understood by people and they need to be debated and we need to make sure that we're putting the right controls on. For example, with respect to regional health authorities, which might be envisioned under this restructuring commission, there are no objectives, goals, outcome expectations, obligations of that commission in the legislation. There is no built-in relationship to district health councils and local planning that's going on. This is a huge area. I'm in a sense just reinforcing the point that you made that in so many areas we don't know what the intention of the government is.

The one specific recommendation that you do get into with respect to elements of these schedules is with respect to the Ontario drug benefit plan and the changes there. On the issue of user fees, our government colleagues raise this with most presenters who raise concerns

about user fees and they say, "But gosh, every other province has them." They then go ahead to defend the fact that we're the only province that would be deregulating drug prices. That doesn't seem to be a good rationale for continuing that policy.

You, in the work you've done on health policy, have had a chance yourself to look at these issues and to discuss these issues with people like Barer, Stoddart and Evans and others who have done a lot of work. Are there studies that talk about what the effect of the user fees and the copayment and the drug plan is in other provinces? Are there seniors who are making inappropriate choices between drugs and other lifestyle challenges as a result of the user fees?

The other question I just would like to add to that is, could you elaborate on your knowledge of the counterproposals or alternatives to user fees, which would be things like clinical guidelines for prescribing and influencing doctors' practices in prescribing versus user fees on patients?

Dr Rachlis: Yes. The answer to your first question is, I'm not sure. In fact, during the preparation of my presentation I spoke with Dr Joel Lexchin of Toronto, who's well known as an authority on prescription drugs, and he wasn't sure himself. There may be a study that was done in Nova Scotia at some point which I think he and I are going to try to look at, if we can find it, that might look at the impact of user fees for prescription drugs. But there have been studies done in other jurisdictions, both for medical services as well as for prescription drugs, and they show that, depending on how they're implemented, you might reduce costs but the likely outcome would be, as in the quote I read from the Evans-Barer-Stoddart report, you'd likely increase overall costs, and you're certainly going to have adverse health outcomes.

There have been several studies done by Stephen Soumerai in the United States looking at the impact of user charges for prescription drugs. They're not exactly the same policies that are contemplated here, so they are somewhat difficult to generalize. But his studies have shown that when you cut back on drugs for poor people—and I think that many of the people who will be affected by these policies would be poor, quite poor—people often choose, perhaps unwisely, not to use the drugs and therefore there is higher utilization of hospitals, nursing homes and other parts of the system.

The alternative to what the government is proposing—there are many, many different policies. I think that if you wanted to take something right off the shelf, you could take the BC policy, because the BC policy is dramatically effective and it's working. How well it's working can be gauged by the fact that the multinational pharmaceutical companies are now suing the province, it's working so well.

Other possibilities include things that might well fit in with what this government might even be contemplating later in its own agenda. Germany put some of the costs for prescription drugs into the physicians' budget, which gave physicians a direct incentive to reduce the cost of prescription drugs. Although I'm not familiar with a

detailed academic evaluation of that, at least anecdotally it seems to have dramatically reduced the cost of prescription drugs. There are lots of different things you can do besides user fees.

Ms Lankin: I have one other very quick question—

The Chair: Thank you, Ms Lankin. It was a wonderful question and a nice answer, but you've used up all your time.

Ms Lankin: There's no time for a quick one?

The Chair: No. For the government, Mrs Johns.

Mrs Johns: I'd like to thank you also for coming here today. As you are well aware, the province is \$100 billion in debt and in our Common Sense Revolution, as you suggested, we said that the \$17.4 billion that was in health care would be there at the end of the term. We have committed to that. But we never said the status quo was what we wanted to have in health care. We are committed to reallocating funds to make sure that we best meet the needs of the people of Ontario, so a lot of these things you're seeing are the result of that and us trying our best to move to the best needs of Ontarians.

I'm interested in your last paragraph on the first page where you talk about the BC model. I know Ms Lankin touched on this a little bit, and I just want to ask you some questions. As you're aware, in our model we have said that if a doctor prescribes a medication and it comes to the pharmacist and it's not the cheapest medication, they have to give the cheapest medication. What's the difference between that and the BC model?

Dr Rachlis: The BC model is based on what's referred to as therapeutic substitution, not just generic substitution. Generic substitution means that you substitute the same chemical made by another company for the particular drug that was prescribed, but it's the same chemical constituent. The active chemical is the same.

Therapeutic substitution means that you look at a whole class of drugs which are different chemically, like the different drugs that can be used to treat ulcers, which is the first class of drugs the BC government decided to work on, and they considered the class of drugs, looked at the drugs and considered that while there were some subtle differences, basically there were no major advantages one to the other. So if a prescription is written for any of those drugs, then the cheapest one is prescribed. However, this can be overridden very quickly, almost immediately, by a phone call by the physician to a special authorization line that the government runs. So that's the difference.

In fact, this is som??ething that's been fairly commonplace in a lot of large American health organizations for almost 10 years. It requires the active participation by the medical profession and pharmacists of course as well, but it can only be done if government takes the lead.

Mrs Johns: Can you just give me a quick number of the difference in dollars saved between the method that we're going after, which is the same classification of drugs, versus the therapeutic? You've said it's a \$100,000 saving per day. What would it be with the process that Ontario's talking about?

Dr Rachlis: Those savings in BC, which has approximately a third of the population of Ontario—I won't get into all the details but I think that you could almost multiply that by three to get what the likely results would be in Ontario. That \$100,000 a day was just for the antiulcer drugs and the angina drugs. Now that they've just started the arthritic drugs, or non-steroidal anti-inflammatory drugs as they're called, at least anecdotal estimates that I've been hearing unofficially from people are that they are looking at maybe another \$100,000 per day. So in Ontario, we could be looking at hundreds of millions of dollars that could be saved from the Ontario drug benefit plan with therapeutic substitution and with better prescribing.

Mrs Johns: I know that you have agreed in here that there need to be changes and really that the direction needs to be better formulated for you to be able to decide if it's something you agree with or not. Inherently, you believe in the restructuring of hospitals and the need for the government to have more clout to allow that to happen?

Dr Rachlis: Before I answer that question, I want to deal directly with something you said earlier. I've heard a number of times from the government and people from the government that the plan is to have the Ministry of Health budget be at \$17.4 billion at the end of the day. I will make a bet to anyone on this committee or outside this committee that that will only happen if the Ministry of Community and Social Services is disbanded, which is certainly what the rumours are. Then the plans that one hears, at least the scuttlebutt, is that the Ministry of Community and Social Services would be broken up, disbanded, and part of its programs and funding will move to the Ministry of Finance and part will move to the Ministry of Health. Therefore, you'll be able to cut the Ministry of Health in real terms by several billion dollars and have its budget at the end of the day be \$17.4 billion.

Mrs Johns: I'll bet you on this, bet two bucks.

Dr Rachlis: If you plan to have the budget for the Ministry of Health, for the programs that are in the Ministry of Health right now, be \$17.4 billion at the end of your term of office, I will bet that. I will bet \$2.

The Chair: On that note, we'll record that bet and we'll go on to the Liberals.

Mrs Caplan: I think Dr Rachlis is absolutely correct.

Mrs Johns: Do you want to put your \$2 in too?

Mrs Caplan: Let me tell you something, I would suggest you not bet your mortgage.

It's exactly what we're hearing. Dr Rachlis has worked in government and advised governments. I guess my first question is, given your expertise, given the fact that you have advised governments not only in Ontario but across the country, and given the fact that you're an author of, I think, a very important book calling for health reform, Second Opinion—I'll give you a plug—did the minister or the ministry invite you in, share with you what they were proposing, and did you give them your advice?

Dr Rachlis: On my own initiative, I have had a meeting with someone on the minister's staff. I must say

it was, at the time, a friendly meeting and I feel that my words were heard.

Ms Lankin: He's sitting behind you. Let's ask him why he didn't pass them on.

Mrs Caplan: Does this bill reflect your advice?

Dr Rachlis: I would say in general, no. In fact, I dealt specifically with the user charge question for drugs, because this is something that's been around for a long time and I knew it would come up again. But it's hard to answer your question because I don't know what the government contemplates. This bill gives so much authority to the Minister of Health that the minister could do anything, some things I might agree with and some things that I might not agree with. So I can't tell.

Mrs Caplan: You know it's the government's intention, or it was their original intention, to have this passed before Christmas. It's now their intention to have this passed on January 29. We've been informed by the clerk this morning that every slot for public hearings is filled in Toronto. We haven't even had time to advertise in communities around the province and every slot is filled across the province. We've got waiting lists of people who want to come to this committee.

Frankly, I think your recommendation is a very good one, to break this bill into pieces that will allow for appropriate scrutiny. We're not talking about massive delays. The government, if they insist they want this, could have it in a reasonable period of time.

How much time do you think should be given to just the health components of this bill? I'm asking that question as someone who's aware of the time that's been given to other health legislation. How much time do you think the health section requires as far as public scrutiny?

Dr Rachlis: I think it requires more than what is contemplated, but what I would really appreciate as an analyst is if there was a bill specifically on the health changes, if we could have a better idea of what the government really has in mind, because I don't know. Does the government really plan to contract out all the cataract surgery in the GTA to the Health Care Corp of America? If you're not contemplating that, then let us know.

But the real problem for me is that I don't know what the government is planning and I would appreciate a clear piece of legislation that was specifically on the health questions that spelled out what the government was looking for. I think, in fact, if that were the case, the government might well find that it could have some support; it may be limited, but it might well have support for certain aspects of its legislation. But I think, as you're probably finding, you're likely not going to get support for this legislation in its present form. I think you're going to get almost no support for it in its present form.

The Chair: Thank you very much, Dr Rachlis. We appreciate your participation here today. I really enjoy the fact that I ended up with four bucks.

Dr Rachlis: It's all right. I have a bet with someone in the federal government as well that's waiting till the next election.

The Chair: I hope we haven't inadvertently introduced user fees to the committee process.

Dr Rachlis: Thank you for giving me the opportunity to present to you today.

The Chair: We appreciate your attendance here today.

ASSOCIATION OF GENERAL HOSPITAL PSYCHIATRIC SERVICES

The Chair: Our next presenters are the Association of General Hospital Psychiatric Services, Bob Buckingham, the past present, and Jane Chamberlin, the coordinator. Welcome to our committee. I obviously missed one name, so when you get a chance, if you would introduce yourselves for Hansard. You have half an hour to use as you see fit. Questioning would begin with the government party at the end of your presentation. The floor is yours.

Ms Jane Chamberlin: You missed an important name, that of John Nkansah, the president of the association. This is Bob Buckingham, and I'm Jane Chamberlin, the coordinator of the association.

Our members are the psychiatric units in general hospitals in Ontario, particularly, mostly, the larger hospitals which have a full range of psychiatric services and are known as schedule 1 facilities. Our concern with the omnibus bill therefore is about its effects on hospitals and about its effect on psychiatric patients, particularly the severely mentally ill.

Dr John Nkansah: I'd like to thank you very much, Chairman, for inviting us here to make our presentation before the committee. As Jane has indicated, our association is very concerned and very disturbed about some of the bill's enactments. The association does feel that the bill, as presently enacted, relating to health care and also to psychiatry naturally, gives extraordinary powers which we believe at the very least should be time-limited.

We clearly see a need for change within the health care sector, including psychiatry, and we clearly all applaud your action and orientation with respect to wanting to bring this about. However, the milieu within which this is being contemplated gives us serious concern, as I have indicated, and even if we were to have a so-called emergency War Measures Act, a sunset clause would be indicated.

We are concerned about possible misuse which could be implied in whatever idea indicated, and as well, about the unilateral powers without due process, and specifically it seems to wish to avoid due process in court challenges and appeals.

We are aware that the ministry will have authority to establish the Health Services Restructuring Commission and for some of the areas where this will indeed be most helpful in bringing about some coordination, integration, of the health services sector and allow certain decisions to be made which hitherto have been very difficult to be made within the current environment. So we see restructuring as being necessary in most areas, but we also feel that due process, through the district health councils, is an area which is important and where the implementation process needs to take place and where recommendations,

after due process, can be implemented. The need to ensure due process is a good one, and we would strongly suggest that this be taken into account.

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In so doing, we would also like to clearly emphasize that there be representation from all stakeholders. I say that primarily because recently in one of the district health council committee hearings, providers such as physicians were eliminated. They were not on the committee and therefore had no voice, and we had to literally embark upon a considerable amount of fighting, if you'd like to use the word, in order to be able to get access to the membership and to have input. We feel that is something we would like to avoid in the future, and that if we are to all work together cooperatively, there should be adequate representation.

From the point of view of psychiatry, we are very, very concerned—indeed, extremely concerned—about government authority to view confidential medical records. As a practising psychiatrist, and I have talked to a number of my colleagues, our ability to be able to work with our patients is based on trust. That trust is extremely essential and important, without which we cannot do our work. If patients are to come to us and know that what they tell us in confidence and in the privacy of our offices about the deepest personal secrets and problems they have could be unilaterally given access to by the ministry, people will simply either not seek treatment when it's needed or, if they do, they will not share some of the things they are most troubled about, which will mean that people will continue to remain ill or have illnesses that might, in the long term, lead to hospitalization and an increase in the cost of health care. So we are extremely disturbed and extremely concerned about confidentiality of records.

In this latter regard, we agree with the Human Rights Commission, which has already indicated that this particular section, which allows review of confidential medical records, is, at the very least, improper. We want to be assured by the government that confidentiality will be assured and that we'll be able to continue to work with our patients, who deserve to be able to talk about their problems without fear or intimidation that somebody else is going to be looking in, or Big Brother's watching, or that somebody's going to be reporting or releasing records about their most intimate affairs.

I'll stop here and pass on to Bob.

Dr Bob Buckingham: The present government has indicated that it is continuing the direction of the mental health reform policy that was developed by the two previous governments. This reform is predicated on the premise that there are no new dollars, which we all accept, but that the dollars that are spent in the area of mental health care need to be redistributed, with the idea that fewer people may need to be treated in the expensive care of hospitals if community supports and services are increased and more adequate.

One of our concerns with the present process of restructuring and the Health Services Restructuring Commission is that again the principles of mental health reform will be lost. Our association within the general

hospitals has been fighting a battle to attempt to maintain the proportion of dollars that is spent in the area of mental health care, and because the psychiatric units of the general hospitals, which certainly treat a significant number of the severely mentally ill in the province, have less clout perhaps in the restructuring and the planning of budgets, they have traditionally suffered a disproportionate loss of resources whenever there is pressure on those dollars.

There's nothing that suggests we are going to learn from the past and prevent this from being repeated again. Many of the restructuring plans that are being prepared across the province by district health councils really are not addressing specifically the need to preserve, and in fact the Metropolitan Toronto district health plan points out that by the year 2001 the need for psychiatric beds within the hospital system will have to increase by 3%.

However, again I think that there has not been any way of protecting the mental health dollar by enveloping the total amount, and we're concerned that this will not be part of the agenda for any Health Services Restructuring Commission. Certainly if the legislation allows the powers to be used on behalf of the most vulnerable group, then I think something positive will come of it. But I guess traditionally we have not been able to rely on good faith alone, and I think we are in danger of repeating the mistakes of the 1970s, where dollars were removed from the institutional side of care for the mentally ill without it being reinvested in the community, and we had the end result that the most severely mentally ill were worse off. I think we are entering a period where we are about to repeat those mistakes unless there is specific protection provided by the government and any legislation that directs the changes that are to come about.

Certainly there has not been so far in the reform process—although there have been many dollars removed from the mental health services provided, both within the provincial psychiatric hospitals and the general hospitals—investment except for a small amount under the last government in increasing the community supports, even though governments have promised that the institutional resources and services would not be cut until the community services had been increased. So this legislation gives powers that could be used for the benefit of the most vulnerable group, the seriously mentally ill, but our concern is that those powers will not be used in that way and that other factors will again lead to the neglect of this group and they will end up worse off at the end.

As was mentioned, even the idea of a very modest drug benefit charge of \$2 seems reasonable but when it gets applied to, again, the seriously mentally ill, it becomes a barrier to adequate treatment. This group is often among a significant percentage of the homeless population, and the illness they suffer from, schizophrenia and major effective disorder, there are more effective drugs. If there is a deterrent to obtain those drugs, because of modesty, then it is likely that more of them will opt not to take medication. Even now the compliance, getting many people within this population to comply with medication, is an ongoing struggle; and so

what seems like a very reasonable user fee becomes a barrier to care for this group.

It was mentioned, I think, that rather than save money, it will have the potential of leading to increased costs, because if the major psychiatric disorders are not treated in the early stages, they become worse and they end up requiring a much more expensive, lengthy period of hospitalization. We are especially concerned about the ramifications in the health area on the group that we provide service to, the seriously mentally ill in our population.

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The Chair: Okay, we've got about five minutes each for questions, beginning with the government.

Mr Clement: Thank you very much for your very thoughtful presentation. Certainly, you've given us a lot to think about. Thank you for taking the time to be here.

Is your association at all concerned about inappropriate billings with respect to psychotherapy services? Is that a problem that you've identified?

Ms Chamberlin: Our association is an association of all the professionals who work in general hospitals and our concerns are largely with the provision of services through hospitals.

Mr Clement: So it's not applicable to you.

Ms Chamberlin: That's not our central concern, no.

Mr Clement: Let me then paint a wider picture of some of the things that we've been hearing over the past couple of days now. I just wanted to get your reaction because you are providers in a very specific area, but there are also wider issues at stake as well. I guess the first question is that a number of presenters—one in particular, a president of a hospital, has said that the greatest threat to health care services is in fact the \$10-billion deficits that the government's been running over the past few years, because that sucks money out of the system to pay for the interest on the debt and it means that areas such as mental health which should be a priority maybe don't get the amount of recognition and service dollars that they need. Do you have any comments on that? Would you like to comment on that?

Dr Buckingham: I think the deficit is of concern. I have seen the budget for mental health services be reduced to pay for a general hospital deficit. It tends not to be the psychiatric services that generate the deficits; it's the more high-tech, expensive services that are costly. But because we provide our services through the general hospitals, we are expected and required to support cost cutting. In that sense, a deficit is of concern.

Mr Clement: It really affects all of us, anyone who is a resident of Ontario. I'm talking about the general deficit now, not specific to a—

Dr Buckingham: But I guess we've always been in a position where we've been less able to shoulder some of that. A 5% cut to the provision of mental health services within a general hospital reduces the ability to deliver service much more than a 5% cut to the department of surgery, which is a much larger service within the hospital.

Mr Clement: Yes, it affects you disproportionately. Dr Buckingham: That's right.

Mr Clement: You said at the outset of your presentation that you felt that the ministry was proposing extraordinary powers, and I believe that you said these should be time-limited. You may know that the minister has proposed to this committee an amendment that would make a four-year sunset for some of the minister's and ministry's powers with respect to hospital restructuring. Does that go a certain amount of the way, at least, to alleviate your concerns?

Dr Nkansah: I raised that point in the presentation. Four years is a long time. When we thought about this, our time frame was that about 18 months might be more suitable than four years. Four years takes us pretty well towards the very end of the mandate of the government, if I understand it correctly, and that means that throughout that whole period we may be subjected to certain decisions about which we would feel totally impotent to do anything about or to influence.

Mr Clement: You want more consultation. It's kind of hard to have consultation, at the same time limiting to 18 months the amount of time to actually do something, wouldn't you say?

Dr Nkansah: I'm not suggesting that you have to do something in 18 months. What I'm suggesting relates specifically to the extraordinary powers. I'm not suggesting that consultation should not occur. What I'm suggesting is that consultation should occur in an atmosphere that is conducive to each party feeling that they don't have a club over their head, so that if I'm in consultation with you and I know right from the word "go" that if I really don't agree with what you say, you're going to implement it anyway, the whole process of consultation doesn't really become a consultative process at all.

Mr Clement: You don't think the Health minister should have that power?

Dr Nkansah: No-

The Chair: Thank you, Mr Clement. Mrs Caplan.

Mrs Caplan: Thank you very much. I think you've given us an excellent portrayal of the impact of this very complicated bill on people, particularly some of the most vulnerable people in our society who require the services that are delivered in general hospitals, and I'm talking about psychiatric services.

We've heard the minister say that there are no new powers for inspection and yet we know that in this bill it creates a new government inspector who will have all the powers of the assessors and inspectors, which now are only in the hands of the Medical Review Committee and the College of Physicians and Surgeons. This is a new power of the minister, and it allows access to the most sensitive files that patients have. That's just one section, that's one part of this bill.

The other thing that you've identified is the potential for non-compliance and higher costs as patients who could be functioning in the community actually are readmitted because they haven't taken their medication, likely because they haven't been able to pay the user fee that is being imposed in another section of this bill. I

would say to you that in the 10 years I've been here I've never seen any power sunset. What the minister has agreed to is that the restructuring commission would be sunset at the end of four years, that there would be just a sunset review at the end of four years, and that's to give everyone confidence. I guess my question is, given the complexity of this bill and the concerns that you have and the fact that there are so many people who want to learn more about the bill, would you agree that rather than having it rushed and finished by 29 January and proclaimed, it should be broken into smaller bills or groups of bills for more scrutiny, so that we can further understand exactly what it is that the government intends to do and why it needs these extraordinary powers that would jeopardize people's health and also jeopardize their privacy? Do you think they should split this bill?

Ms Chamberlin: I think Dr Rachlis made an excellent point, which is that it's very difficult to tell what the government wants to do. There's a huge amount covered in this bill, and a lot of it gives extraordinary powers without of course any indication of exactly what they're to be used for. I think, though, that as a group we have some sympathy with the government's wish after many years of consultation, like that which went into the Metropolitan Toronto District Health Council hospital restructuring in Toronto, to see some action. I would think that our group would be in favour of facilitating the government's ability to act on issues that have already been through a thoroughgoing consultative process and that have a fair amount of consensus and can demonstrate their validity. It may be, in certain cases, time to act, and we have some sympathy with the government's desire to give itself the ability to act.

We are obviously concerned that the ability is unlimited, very wide and very unspecific. One way of the government's reassuring us would be that it shortens the term in which it feels it's necessary to act unilaterally, and with these extraordinary powers, to something like 18 months or perhaps two years; secondly, that it only do so in cases where there's already been an adequate consultative process and the direction is clear; and, thirdly, that it demonstrate its goodwill towards the really vulnerable people in society and protect the mental health funding envelope which stands. If hospitals are not notified immediately that they must protect the mental health dollar in their budgets, they will cut those budgets and the money will vanish, as we have seen it vanish so often in the past.

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Those people who are the least able to protect themselves, the severely mentally ill, you do not see clamouring on your doorsteps. They are not people who have occasional cardiac misadventures. They are chronically, severely unable to advocate for themselves, and their services need to be increased. As was demonstrated in the Metro Toronto hospital restructuring report, they are one of the few groups of acute-care patients who actually need an increase in services. Efficiencies may be possible, but they are specifically targeted for an increase in that report which in virtually every other area of care is looking at consolidation and downsizing. We cannot

emphasize to you enough that this group must be protected and the funds that care for them must be protected because they cannot protect themselves.

Ms Lankin: That was a very, very cogent argument that you just set forward. Your whole presentation was terrific, but that last summary was very important, and I'd like to request that we could get a Hansard copy of that as soon as possible.

There are a few things that you set out that I just want to say that I would agree with you on. I implore the government members to think about the possibility of splitting these bills up and of dealing with them in chunks that are possible. I would commit support immediately for a bill that dealt with the implementation of things like the necessary decision-making powers out of the Metro restructuring report. Where there's been all the consultation, there's a great deal of consensus and we need to move ahead. I don't want to see things like that held up, but I think the powers that are in this bill are too broad, too undefined. There's no definition of the restructuring commission's role, its relationship to the DHC, those consultative reports etc. I think that's an excellent suggestion that you've made.

There are three things that you touched on that I hope I have time to ask you about. Number one, the issue of user fees on drugs: There is obviously an ideological debate that may take place around universality of the drug program versus what's happening in other provinces. Let's set that aside. There is an issue that we have heard raised on behalf of poor seniors and whether or not they would be making difficult choices. Let's set that aside for a moment.

You raise an issue which we heard earlier today from a psychiatric nurse—it's the first time we've heard these arguments put forth today—that there are very vulnerable people who are without housing, without supports and without money, who already have a problem with medication compliance. I just wonder if you could tell us a bit more about what it means for the life cycle of some of these people. I suspect it means chronic readmissions.

Dr Buckingham: It does indeed. I think that individuals who suffer from serious mental illnesses, if their symptoms are not controlled on medication, then they gradually over time have a recurrence of symptoms that lead to a decreased ability to maintain their stability in the community, often will then progress to psychotic thinking and their behaviour or affect or thinking precipitates an emergency that does lead to hospitalization in an acute decompensation, which then requires a longer stay in hospital to again get them back to a level of health that they are able to go back into the community.

Because that medication is not continued, for many people the revolving-door syndrome has been present for a number of years. That's when medication has been provided. Often they don't understand the need to continue on it. Any additional barrier, such as a \$2 fee, is going to increase that difficulty and going to result in more of those individuals going off medication or failing to have a prescription filled.

Ms Lankin: I had two other questions, but in deference to the Chair I'll cut it down to one.

I heard you talk about the need for a commitment on the reallocation of institutional dollars into the community. Earlier today we heard a similar plea from the district health councils in terms of a percentage allocation so that we know what's happening. In the Metro report, for example, all of the recommendations about hospital restructuring are absolutely reliant on the recommendations about community investment. You can't do one without the other. You'll have gaps in the system if you don't increase the spending in psychiatric and mental health care, as they say.

I wonder if you could elaborate on that. Do you think it would be helpful for that kind of recommendation to be spelled out in the legislation so that if we are going to seal the health envelope and the restructuring is going to be facilitated by these extraordinary powers to downsize, merge and close hospitals, should we be also setting out restrictions on what the government does with that money, ie, it gets reinvested in health services as opposed to being put against the tax break for the rich?

Dr Buckingham: If that would ensure that it be done, I would certainly support that. I don't think that good faith alone will see it happen. There are too many competing interests and the group are not able to advocate for themselves, so legislative protection would be desirable.

The Chair: Thank you very much. We appreciate your interest in our process and your presentation here today. Have a good day.

ONTARIO PHYSIOTHERAPY ASSOCIATION

The Chair: The next group is the Ontario Physiotherapy Association represented by Signe Holstein, executive director. Welcome to our committee. You have half an hour to use as you see fit. Any time left for questions would begin with the Liberals.

Ms Signe Holstein: My name is Signe Holstein. I'm the executive director of the Ontario Physiotherapy Association. Before I took this job, I was a practising physiotherapist.

The Ontario Physiotherapy Association is the largest voluntary professional association for physiotherapists practising in Ontario. The association has been in existence since 1924. Our current membership is about 3,500 physiotherapists. Our members practise in a range of venues across Ontario: in hospitals, in home care, in various types of community-based facilities, in private clinics, in industry and so on.

Physiotherapy is one of the continuous threads in Ontario's health care delivery system.

While we appreciate very much the opportunity to appear before the committee and to put our views on the public record, I must point out that it is difficult, especially for a voluntary association such as ours, to devise a position that represents the considered views of our membership in such a short period of time. We, like everyone else, only saw Bill 26 for the first time a month ago and we were advised only yesterday that there was an opportunity for us to appear today before this committee. It has been made doubly difficult by our need to

comprehend proposed legislation that is both voluminous and complex.

While we see a host of new powers being granted to the minister, we have been given no idea how the minister intends to exercise those powers in the long term. What is missing from the exercise, in our view, is a clear and comprehensive statement of the objectives being sought or the vision for the health care sector that the government intends to use this legislation to achieve. If both had been enunciated, we'd be in a far better position to evaluate this bill. However, we're a bit in the dark; we're shadow-boxing. We can only comment on what might be done with the powers proposed in Bill 26.

Our first concern is a general one about the enormous centralization of power in the health care sector contemplated by Bill 26. The past decade or so in health care has seen a gradual trend of decentralization and devolution of powers from the Ministry of Health to various types of community-based organizations. Similarly other provinces—I have in mind as examples Alberta and Saskatchewan—have decentralized delivery and funding decisions to regional or community organizations within the province's overall fiscal and public policy envelope. 1600

Bill 26, in order to achieve certain fiscal objectives, abruptly reverses this trend. While we understand the reasoning behind it, we don't think it makes long-term sense.

Community-based decision-making means that the configuration of health care can be adapted to the circumstances and requirements of each community. Community-based decision-making makes the community part of the process and, as such, democratizes and potentially depoliticizes the hard choices that have to be made about health care delivery and funding.

Community decision-making encourages the community decision-makers to devise seamless continuity of health care delivery in each community. Community decision-making facilitates consultation with local health care providers and constituencies. Community-based decision-making does not mean that the provincial government loses spending control. In Alberta, the new model of regionalized decision-making is being used to reduce health care spending.

In Ontario, we have in place the network of district health councils that is being pushed aside in hospital restructuring by the hospital restructuring commission. We recognize that DHCs have had their problems and have not been as effective as they might have been. But Bill 26, in general, and the hospital restructuring commission in particular, could undermine the DHCs and make them somewhat redundant. We think the DHC system should have been fixed, not pushed aside. In our view, the hospital restructuring commission is a typical bureaucratic response to a public policy failure: Rather than fixing an organization, another organization is being superimposed on the existing one.

Another issue we'd like to address is the question of hospital appointments and privileges under the Public Hospitals Act. Currently, only physicians, midwives and dentists may register people as outpatients in public hospitals. Physiotherapists believe they should have admitting privileges to public hospitals.

With proclamation of the Regulated Health Professions Act in December 1993, physiotherapy became a direct-access profession. A physician's referral is no longer required by law to access physiotherapy assessments and treatments.

Requiring a physician to admit a physiotherapy patient leads to a delay in treatment that may retard recovery. Delayed recovery usually means more treatments, more cost to the health care system and more cost to the economy generally.

The requirement for a physician's admission also means duplication of effort which means, in turn, that the health care system pays two health care professionals for something that, in most cases, requires only one.

Bill 26, in particular the proposed amendments to subsection 44(1) of the Public Hospitals Act, addresses the issue of hospital privileges but only in the context of hospital closings and only with respect to physicians.

For nearly five years now, the Ministry of Health, the Ontario Hospital Association and the health care professions consulted on the development of a more rational and up-to-date model for hospital privileges.

We were advised that ministry officials suggested that Bill 26 provided a handy mechanism to implement a new model for hospital admissions and privileges but the government rejected the idea. We think the government missed an opportunity to modernize hospital privileges and to make health care delivery most cost-effective and efficient in the process. Perhaps the committee may wish to revisit this issue.

Our third concern relates to the proposed amendments to the Independent Health Facilities Act.

Under the terms of the social contract, physiotherapy has been consulting with the Ministry of Health on alternative funding and delivery models for physiotherapy in the province. Currently, physiotherapy outside of hospitals, when provided by licensed clinics, is an "additional insured service" under OHIP. The physiotherapy clinics licensed to bill OHIP for physio services are now known as schedule 5 physiotherapy clinics. There are currently 101 such clinics actively billing OHIP.

Essentially from day one of these consultations, the ministry has pushed the independent health facilities model as a replacement for the current schedule 5 system. It is our clear impression that the ministry sees IHFs as a panacea for resolution of a range of funding and delivery questions in the private clinic sector.

We have, as a profession, expressed major reservations about the IHF model that we wanted the ministry to address. Time doesn't allow me to review them all, but let me give you a few examples.

We think the IHF model is too bureaucratized. It centralizes control over the location, configuration of services and funding of each IHF in the Ministry of Health. We are very concerned that the IHF model will not allow physiotherapy clinics to adapt to rapidly changing circumstances and requirements; for example,

the closure or downsizing of a rehabilitation facility at a local public hospital.

For historical reasons, a number of schedule 5 physiotherapy clinics are owned by physicians. In addition, there are what we call physician-owned, G-code clinics. These are clinics that provide what are referred to as miscellaneous therapeutic procedures to patients under a physician's delegation or supervision. Many of the services rendered in these clinics are physiotherapy services. In 1992-93, physicians billed OHIP \$17.9 million under G467, another \$9.8 million under G700, and an untold amount in payments to auto insurance companies.

Finally, there's been an explosion of physician-owned rehabilitation clinics, largely in response to the demand created by motor vehicle accidents and no-fault insurance. Many of the services provided are physiotherapy services. We think physician-owned physiotherapy clinics cause problems. For example, they give the physicians-owners the ability to generate business for their own clinics by referring their patients to that clinic. We think this is thinly disguised self-referral that is contrary to the patient's best interests.

We are also concerned about the impact on our professional standards, ethics and regulatory accountability when one regulated profession, in this case physiotherapy, is employed by another profession, in this case medicine.

With that as background, let me return to the amendments to the Independent Health Facilities Act proposed by Bill 26. We fear that the proposed amendments to section 4, titled "Designated services and facilities," will allow the minister unilaterally and with the stroke of a pen to designate schedule 5 physiotherapy clinics as IHFs.

This in itself is bad enough, but in doing so, the minister could also grandfather existing physician-owned schedule 5 clinics, G-code and rehabilitation clinics as IHFs, thus confirming or even exacerbating a situation we feel is already untenable and costs the province tens of millions of dollars annually in OHIP billings.

We are also very concerned about the proposed powers, in amendments to subsection 5(1), whereby the minister may sole-source or limit-source proposals for IHfs. We were, quite frankly, stunned when we first heard this idea and thought it must be a mistake.

A sole or limited sourcing proposal system raises at least the perception of favouritism. The competitive bidding process, with all its imperfections, tends to keep the process honest, tends to generate the best proposals and is relatively transparent. Sole or limited sourcing achieves none of these objectives, and quite frankly, we find it abhorrent in a general public policy sense.

There is a great deal of concern among health care professions, and I venture to say within the public at large, about the intrusion of American-style, for-profit health care clinics into Ontario and all that they entail, including the migration of American-style attitudes to health care delivery.

American HMOs and so on will already have an advantage in bidding for IHFs by virtue of their size, their wealth, their experience, their political connections

with the right-wing in the US and their lobbying abilities. We would be very concerned—perhaps "outraged" is a better word—if the minister's sole sourcing power were to be used to grant IHFs to American-owned IHFs.

We simply to not understand the need for or the logic behind any sole sourcing power, especially from a government that places such confidence in the abilities and disciplines of the market. In a competitive, open bidding process the market will assure a level playing field, will assure highest-quality proposals and timely responses. Sole or limited sourcing is simply more trouble than it's worth.

Our final concern relates to access to patient records by government inspectors. You've heard from other witnesses on this matter, so I won't belabour the point.

I can't think of another issue that cuts so deeply to the heart with health care professionals as does the issue of practitioner-patient confidentiality. Throughout history, our professional ethics have charged us with the protection of personal records against the prying eyes of everyone, including an increasingly intrusive state. We recognize that the government feels that it must have this power in order to address fraud. We assert that there are better ways.

As a profession we are keen to work with the government on effective ways of getting at systemic fraud using the existing powers of the regulatory boards. On a caseby-case basis, if the government suspects practitioner fraud it should seek the patients' consent for access to patient records. It should not have the power, without a judicial warrant, to go on a general fishing expedition. Otherwise, the government has created a very slippery slope. Fraud today, but what tomorrow? And at what cost to the personal privacy of individuals?

In closing, for the past five years health care professionals in Ontario have had to face and deal with a virtual blizzard in public policy initiatives and funding constraints. Many of these initiatives, I am sure, were well-meaning. Many were driven by ideology or preconceived notions. Some resulted in net benefit to the health care system; many did not. They were, virtually all, destabilizing to one degree or another. What Ontario has not had for some time is a comprehensive vision of the future health care delivery system for Ontario.

In the absence of such a vision, ad hockery, incrementalism and major policy reversals and adjustments have prevailed. Because there has been no vision, there has been no consensus on objectives, there has been too little partnership among the stakeholders, too little consultation and too little coordination. As a result, our health care system is in a fragile state.

The government has developed the health care amendments in Bill 26 as a specific response to a specific situation: the need for consolidation, rationalization, efficiency etc in the hospital sector. But Bill 26 goes far beyond the hospital sector and raises issues far beyond those of consolidation, rationalization and efficiency. Bill 26 and the comprehensive powers it includes, once passed, will be on the books for a long time and for any

purpose for which the government, this or any future government, decides to use them. That concerns us.

Having said that, we know what happened last June. We know that Ontarians elected a government committed to fiscal conservatism and restructuring because Ontarians are concerned about their future and their children's future. While there is much in Bill 26 that concerns us, we recognize the popular will and commit ourselves to helping the government make its health care restructuring work for the benefit of our patients.

Thank you for your attention.

The Chair: Thank you. We now begin questions, about four minutes each, with the Liberals.

Mrs Caplan: As always, an excellent and thoughtful presentation.

The first question that I have for you is, were you consulted by the minister, the ministry? Did you have an opportunity to meet with the minister and see what was being proposed in the legislation and have any discussions about how it might potentially affect physiotherapy?

Ms Holstein: No. Certainly not before it was presented. We were invited to the briefing sessions following.

Mrs Caplan: Have you had any indication from the minister that they intend to include physiotherapy? We have not had any stated intention. We don't know how the government and the ministry, the minister, intend to use these massive and absolute powers. You have every right to be concerned. What I'm trying to find out is, have they told you that you're going to be affected by this?

Ms Holstein: No. We have no reason to believe one way or the other. We're really basing our concerns on what we see and can understand from the legislation and from discussions around other issues with ministry staff.

Mrs Caplan: My reading of the bill suggests that every place where insured or uninsured physiotherapy services are provided could be required, under this legislation, to be part of an IHF. Is that your reading of the bill?

Ms Holstein: That's certainly the way we interpret that it could be utilized. Whether it would is another question, but the permissiveness, if you will, is there.

Mrs Caplan: I find it just amazing that they wouldn't have discussed with you if they had any intention of doing that so that at least, when you came forward, you'd know what the intent was.

Would physiotherapy support having this massive bill broken into individual bills to allow for greater scrutiny and hearing from the minister what his intention is? Right now he seems to be suggesting that this has to do just with bricks and mortar and moving around governance structures of hospitals and that kind of thing. Would you support having a process that would allow greater scrutiny individually, bill by bill?

Ms Holstein: I think we would support anything that would allow us a greater understanding of what the objectives were and what the expected outcome was to be.

It's really hard to comment on this when, other than fiscal restraint, you don't understand what the objectives are or the context is. So we are, in effect, commenting on a bill in a bit of a vacuum. We understand that there is a need for fiscal restraint, we understand that we will be part of that, but we also want to be a part of how that is shaped, because we do believe that we have some good ideas to bring forward and some very positive ways that we can contribute to that restructuring.

Ms Lankin: I appreciate the thoughtfulness of your presentation and I think you raise some issues that complement some things we heard earlier today, particularly on the section about the IHF, when the radiology section of the OMA was here, and similarly last night when MICO presented. They raised concerns about the removal of the preference for not-for-profit, Canadianowned health facilities and in particular made reference to self-referrals, and you have this experience with some of the physician-owned physic clinics, and I'm concerned about this.

The minister does seem to understand that, for example, in fee-for-service billings of doctors there is a potential for a individual doctors to control ie, increase, the volume of their work. He said this to us and I think yesterday he went off the deep end when he attacked doctors around some of these issues, but he seems to understand, in the payment schedules for doctors, that potential but yet is prepared to open up health facilities to for-profit operations, and it's beyond me; I don't understand how that could be helpful.

Your profession, as we struggled through the Regulated Health Professions Act, finally becoming a direct-access profession—was that, Elinor, through three governments and eight ministers of Health that it took to implement that?

Mrs Caplan: At least; 11 years.

Ms Lankin: You're there finally, and I suspect with time we will understand that that in fact is a saving to the health care system. Like others—chiropractic, for example, the Manga report on control of low-back pain—physio is a profession that can deal with certain situations more effectively and in a more cost-effective way than through the medical route.

I'd worry about your profession being jeopardized in terms of direct access if in fact we open up the IHF to profit-making organizations. I think first of all they'd come from the States; secondly they'd come more like health care management operations, and physio is just simply an employment group, not a profession within it.

Have you looked at any of the US examples, or how do you think that would play itself out here?

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Ms Holstein: We've begun to look at the US models, because they are of concern to us, and we have had some discussions with colleagues in the States who are involved in those kinds of models now. Certainly, the environment in which physiotherapists practise in the United States is quite different from the way we practise in Canada, although there are a lot of similarities.

We would prefer, quite frankly, to see the profession practise in the way that the Regulated Health Professions Act and some of the other legislation in Canada have set the stage for the profession to practise: as an independent health care profession that is part of a team of providers in the community, where the most appropriate provider is the one who is providing care; that it's based on evidence-based practice and not on a checklist of who should provide what and what can be billed for. So we have considerable concerns about the American style of practice.

We believe that certainly the need to be cost-effective, the need to be able to show that what you do is of value is a very important component, and that we need to do that in our own Canadian way.

Mrs Ecker: Thank you, Signe, for coming forward with a very good presentation. You've made a number of excellent points which are going to be very helpful.

I was pleased to see you highlighted the overuse and abuse in the rehab clinics that have involved both physicians and physiotherapists, and I know both regulatory colleges have been trying to figure out how to address that.

One of the values of the Independent Health Facilities Act, which has been again supported by all three governments, is that it sets up a quality assurance process that is multidisciplinary. The teams of professionals who work within the system work to establish, as you quite rightly pointed out, evidence-based, clinically based procedures within the clinic, and frankly some of those rehab clinics might well benefit from the fraud and misuse that may well be happening and some of them might well benefit from those quality assurance provisions that might well be in the Independent Health Facilities Act.

The other question, though, that I actually wanted to get at was, you acknowledged the need for restructuring, and again you quite rightly pointed out that is something that district health councils and local community input should be guiding. The concern that the minister has been trying to address is that we have the district health councils out there doing precisely that. For example, in my region the district health council did an extended public consultation process to do this, but there's been no mechanism for the minister to implement those community-based plans and recommendations. So the hospital restructuring commission was the non-political body that he was proposing to set up to try and implement those. If we do not use that mechanism to implement those community-based plans, how should the minister do that?

Sorry; I didn't mean to put you on the spot.

Ms Holstein: I think, though, that there are a lot of strengths even yet in the district health council system, and maybe looking at where the really positive, very good activities in terms of district health councils already are in place; how do you strengthen that system? Do you need to go back and take a look at, do you extend some of those powers that we're talking about in the restructuring committee in some fashion with the district health council or a community-based council rather than another piece of bureaucracy? I have that problem with anything, why we put another layer in anywhere; it doesn't matter what we're doing.

Mrs Ecker: How do you stitch them together, though? I think that's the challenge. You've got a district

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health council here, a district health council there and they need to do this. How do you stitch that together in a provincial health plan which, as you quite rightly point out, we need a vision here to do?

Ms Holstein: But you also have an organization of district health councils. You've got an association of district health councils; you've got executive directors of district health councils who meet on a regular basis. Are there ways of working with what's in existence in terms of that association or the collegial? There are political problems between district health councils, just like hospitals or anything else, but I don't see that a hospital restructuring commission isn't going to have politics involved in it either. Everything in life has politics in it.

So you have an association of district health councils, you've got district health councils that talk to each other, you have some district health councils that certainly need some help to become more sophisticated and able to implement plans, but surely there's some benefit in looking at that structure as well.

The Chair: Thank you for your presentation this afternoon. We appreciate your interest in our process.

RESISTANCE AGAINST PSYCHIATRY

The Chair: Our final presenter before dinner is Don Weitz, from Resistance against Psychiatry.

Mr Don Weitz: I just have to plug this in.

The Chair: Okay, no problem.

Mr Weitz: It's a tape recorder, okay?

The Chair: Welcome, sir. You have half an hour to use as you see fit. Any time you leave for questions will be divided evenly among the parties, beginning with the New Democratic Party. The floor is yours, sir.

Mr Weitz: Thank you, Mr Chairman. I wish to start off by introducing myself. I am a proud psychiatric survivor, a published writer, a radio host at CKLN, operating out of Ryerson. I'm co-editor of what I like to say is the critically acclaimed book Shrink Resistant: The Struggle Against Psychiatry in Canada—it came out in 1988—and cofounder of the anti-psychiatry magazine Phoenix Rising and a human rights advocate.

Unfortunately, I'm unemployed, like at least a million—well over a million—people here in Canada. I was thinking of applying for one of the advocacy positions, but Mike Harris and his henchmen saw fit to abolish government-supported advocacy in Ontario.

I am going to focus my remarks on one of the most outrageous violations of human rights, which others have touched upon and discussed, including the previous speaker: the alleged right of the Minister of Health to access, to disclose and to copy any citizen's medical record.

I will repeat the relevant quote from part IV, I think it is, under schedule F, the Independent Health Facilities Act section: "These amendments would give the minister power to collect, use and disclose personal information for specified purposes and to enter into agreements for the exchange of personal information for specified purposes. The director would be allowed to require licensees to provide information for specified purposes."

In that statement there are no guidelines, no limitations, no restrictions to this ministerial power, which I consider another power grab, over access to one's own records. Apparently, no consent of the patient is mentioned or required either. The phrase "specified purposes" is not defined or explained in that section; it's not qualified. The term can mean and apply to virtually anything or anyone the minister wants it to mean or apply to.

To whom can the minister disclose one's personal medical or psychiatric records? Silence in the bill. Silence in the statement. No clue or indication: blank cheque. Fishing expedition. That was the phrase used by the previous speaker. I was careful to remember that phrase: a fishing expedition. Which, of course, is what we would expect in a dictatorship, or certainly in a fascist state: a blank cheque, no accountability, concentration of power, and of course full support from the rich corporate boys on Bay Street and other places in Ontario.

I have personal knowledge of people being hurt, harmed, often permanently, by non-consenting disclosure of their records by a professional body—not a person—such as the College of Physicians and Surgeons of Ontario, against their will. She had to have psychological counselling—it's in her chart—after she was sexually molested by her son's paediatrician. Sharon Danley has testified publicly yesterday to this. She is a friend of mine, comrade, close friend, terrific advocate and very courageous woman, very courageous.

This is allowed, to use one's medical record as a weapon to discredit a person's testimony before a tribunal such as the College of Physicians and Surgeons. Now we know of course the Supreme Court of Canada will allow a woman, whether she has a psychiatric history or not, who has been raped and who complains, who dares to accuse a man of rape—her records, her previous medical records, can be used against her by the accused.

Is Ontario going to just jump on board and say: "Oh, that's fine, let's do it. Hey, this is great stuff"? No, it is not great stuff. It's a serious violation of trust. It's a serious violation of doctor-patient confidentiality. I'm sure I'm not the first and I won't be the last to say it. It's a serious human rights violation, and yet this minister, with the blessing of a lot of members of Parliament, says: "It's okay. Put it in the bill." I say it should be immediately stricken. It is not only obscene but unethical and seriously threatening in this ominous bill. It shouldn't be called an omnibus bill, but I use the word "ominous," like Mayor Barbara Hall did. I think that's an appropriate term to use to characterize this very, very threatening bill because it threatens so many of our rights.

Psychiatric survivors, of which I am one, really shouldn't be used to—although unfortunately I have to say many of us have been common victims of this kind of violation of our rights. In fact, very rarely are we told our rights when they're taken away, such as when we are in a psychiatric ward anywhere in this province or country. So this is nothing new, but we had a little bit of hope over the years, as human rights became fashionable to talk about, particularly as they applied to patients and particularly as they applied to people in psychiatric

facilities, that maybe the government would be a little bit more sensitive for a change. Of course, not with the Harris government. We have seen just the opposite.

To grant the minister such unbridled, unrestricted power is bad enough, but what is also disturbing is there's no recognition that other current legislation does restrict the right of a doctor or anybody else to disclose your record. You know, in the Mental Health Act, bad as it is—and I've been a vocal critic of this for some time still, in the Mental Health Act of Ontario a 1987 amendment very clearly says that, for example, if anybody wants to subpoena your medical record, it's got to be decided in court, not outside of court. A judge has to decide. Well, this minister apparently hasn't heard of that or chooses to ignore that restriction. When the disclosure is refused by a judge, that's it, but the point is a judge can decide that, and the doctor has to make a case that disclosing your record will interfere with your treatment or hurt the patient or probably cause emotional or physical harm to a third party. But that's in the court.

This minister, Jim Wilson, wants: "Oh, we're not going to deal with such frills as appeal processes like tribunals or courts. What I say goes. That's it." This is the mentality that informs this so-called omnibus bill, that informs this government. Rule by fiat, force. "I say it. It must be right. Don't question me. Don't discuss." In fact, I'm lucky to be here, I should add.

Any capable or competent person has the right to see or copy his or her own medical record, in the Mental Health Act of Ontario, with a few qualifications, of course, when you're judged "incompetent" or "incapable," which is a highly subjective, dubious concept to begin with. Still, you go to the review board. That's an appeal process. The minister doesn't mention an appeal process. Once again we have an appeal process in the Mental Health Act when someone wants your record. No mention of that in this great bill.

If you are presumed incompetent in a psychiatric facility, you can appeal that. Many of us have been judged incompetent to understand our medical record. Mind you, it's not so easy to understand, particularly the way doctors write in psychobabble, but still we have a mechanism through the review board. No such appeals or safeguards in Bill 26.

In the Substitute Decisions Act there are restrictions on who can see your record. Well, I know this government was arrogant and contemptuous of any attempt to provide advocacy, so please bear with me while I mention the Substitute Decisions Act, which had some good things in it. It had some safeguards, damn good safeguards.

The public guardian and trustee cannot access your medical record for any personal information as defined in the Freedom of Information and Protection of Privacy Act. It also cannot search. This public guardian cannot search your records kept by the person who has custody or control of your record. The public guardian and trustee needs the consent of the person—needs consent of the person—to remove any records for copying. I mean, just to get your record to go to the Xerox machine, he needs the consent, your consent, and rightly so. The public guardian and trustee must return all records within two

business days and give receipt for records to person holding the records.

See what I mean by restrictions? It's not a fishing expedition in that act. The public guardian and trustee cannot remove any records needed for care of any "incapable person." The justice of the peace can issue a warrant for your record if the public guardian and trustee's request to see your record is refused. There are strict conditions of access spelled out in the Substitute Decisions Act.

Silence, a wasteland, from Jim Wilson here on Bill 26. This is from the Substitute Decisions Act, "A person who obtains access under this section to a person's clinical record within the meaning of section 35 of the Mental Health Act shall not disclose information from the clinical record to any person directly or indirectly, except in accordance with that act."

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That's as legalistic as I want to be. I'll say a few more remarks and be open to questions or comments. I can tell you this. I've been advocating, usually—well, always—without pay, and that's fine, up to a point, about how people can get their records. I've been trying to help people get hold, sometimes, of their records. I've been trying to help people stay clear of psychiatric abuse, which unfortunately is routine in virtually every psychiatric facility in this province. It's not a question of if it goes on, it's a question of how much and how much damage is done.

I'm very sensitive to rights, but when a minister, Jim Wilson or whoever, is arrogant and contemptuous enough of our rights to put this in a bill and expect us to swallow it or bow down and say, "Oh, thank you, thank you," he's got another thought coming.

I'd like to know, and I'm going to ask this question of everyone of you here, and I'd ask this of Mr Wilson himself: Why do you want this power? Why do you, Minister Wilson, want this power? You justify it to the people of Ontario. I want a straight answer—none of this bureaucratese and efficiency crap we fear. I want a straight answer that I can understand. I think the people of Ontario have an absolute right to get that answer. Why?

So far, all I've heard is, "Well, we want to go after medical fraud," this and that. Fraud certainly goes on, no question about it, overbilling of OHIP, which you probably all know about, billing for services not rendered. Ms Sharon Danley eloquently spoke to that issue. But that is a criminal act, the province of the Attorney General. It's a crime, so why the hell does the Minister of Health have this power to try to detect fraud? Fraud is a criminal act. This is beyond the jurisdiction of the Minister of Health, or it should be. This is the responsibility, in my opinion, of the Attorney General.

I don't know. Am I wrong? Here's the Minister of Health who wants to act like a prosecuting attorney or something. It sounds like it.

I want to end now with some general statements about what I consider to be in back of this Bill 26, particularly this heinous section which gives the minister the power to go after anybody's record, often without their knowl-

edge and consent. There's nothing in here that says he has to tell you he's looking.

I have to say I detect a strong neo-Fascist motive or process going on. It has all the hallmarks of it: concentration of power, lack of accountability, ramming through this bill and others like it, with no public discussion. The only reason we're having the discussion is that one or several courageous members of Parliament one night decided not to leave the Legislature and forced the government to take a look at itself and what the hell it was doing.

I know I smell that Fascism is informing this, in a socalled democratic society. I smell it. I don't know how else you can characterize this grab for power, trampling on people's rights, forcing through and virtually getting rid of public discussion on such an important bill. It concerns a deprivation of our rights. I won't say anything more about that, because I don't want to be accused of, "There goes Don, sounding rhetorical." But if the shoe fits, it should be worn.

Yes, I do want a straight answer about why Minister Wilson saw fit to grab for this power over people's files. I want a straight answer. If I don't get it from anybody here, I'm going to ask Mr Wilson to his face, one way or the other.

Frankly, I don't like being victimized again. I was victimized and abused when I couldn't get my records many, many years ago. I do not appreciate this government sanctioning this secret, spying type of—yes, it is spying on us through getting our records. God knows what's going to happen to them or who's going to have them.

Anyway, you can be sure that a number of us who cannot be here and probably won't be here because they didn't have enough time or for a lot of good reasons, others who are much more eloquent than me—I wish they could be here to express what it means to have your records used against you, like Sharon Danley did.

I think I'll close now and open for questions. I do plan to submit some kind of brief. I understand I have until—what's the deadline? Sometime in January now?

The Chair: January 18.

Mr Weitz: Thanks. I'll do my best to get something in in writing.

The Chair: We look forward to your written brief. You've left two minutes per party, starting with the NDP. Ms Churley, do you have a question?

Ms Marilyn Churley (Riverdale): Yes, I do. It's nice to see you again, Don. I should say that Mr Weitz has been a very strong and long, long-term advocate of psychiatric survivors, and I've had the privilege of working with him over the years to try to right some wrongs in the system. Your presentation demonstrates fairly clearly for me how very frightened vulnerable people in our society are when they hear about some of these powers being taken on. That's what came through for me.

We just have a little time here, so I'll ask you, have you personally been consulted—I know you're well-known in your community for being an advocate—or any of your colleagues, psychiatrists and others who are leading the fight against some of the injustices and

difficulties they see in the system? Do you know of any consultation that has taken place?

Mr Weitz: Oh, none. Do you mean with the government taking the initiative and contacting any of us?

Ms Churley: Yes.

Mr Weitz: No, and I'm in touch with quite a few individuals who are active in groups, and I would have heard. I know no one called me to consult.

Ms Churley: So as far as you know, no.

Mr Weitz: As far as I know, no. The Chair: Thank you very much.

Ms Churley: Is that two minutes gone already?

The Chair: Yes. It was a long question, Ms Churley.

Mrs Johns: Thank you very much for being here, sir.

I want to say that your presentation has been very informative about some things. There are some things I

informative about some things. There are some things I disagree with, obviously, being the government. I believe the Harris government is caring, in the fact that it cares about the future of our children and is trying to make a sounder future for them.

I just want to clarify that we offered more consultation than this, over a shorter period of time, and it was refused by the other parties.

You asked us to talk about why we put this into the act. The act is prefaced by the fact that there is abuse and misuse of billings by physicians. I think you probably agree that that is the case.

Mr Weitz: Oh, certainly. There probably always has been since the start of OHIP.

Mrs Johns: What we're trying to do is work at correct ways of making sure we can stop some of that abuse and misuse. As you know, the Ontario college of physicians has a process where they are allowed to look at their doctors and decide exactly how to detect inappropriate billing. We're looking at a process where the Ontario government also could do that, because the process with the college of physicians costs in the neighbourhood of \$22,000, it only sees a hundred people a year, it's three years backlogged. We don't think that's very appropriate for the taxpayers of Ontario.

We have brought this in. What we're saying is that the people who look at your records will be doctors and will therefore have the same kind of regulations as the doctors.

The Chair: Do you have a question, Ms Johns?

Mrs Johns: Do you think that doctors will inappropriately use your records?

Mr Weitz: I have good reason to believe that yes, they will, but it may be not just doctors. I happen to know that a number of my friends did not give their permission for some of their records to be given out over the years, and they're very surprised and alarmed to find out that somebody else knew about some of their past. And I know some people whose records were stolen from a doctor's office.

Yes, fraud exists, but I think this is the absolutely wrong way to go about it. That's my point. I already said it should probably be the Attorney General or an independent lay commission.

The Chair: We have one more quick question for you from Mrs Caplan.

Mrs Caplan: Thanks, Don, for appearing—an excellent presentation and I think very legitimate concerns. One of the suggestions I've made is that the minister take all the parts in Bill 26 that would potentially affect patient confidentiality or the need to deal with access to records and bring it in in a separate piece of legislation that would afford the protections. We would want something that would satisfy the privacy commissioner but that would also address the fraud issues.

Unfortunately, in the way the minister's presented this, he's tended to broad-brush a whole profession and tarnish their reputation, and that's unfortunate.

Mr Weitz: Everybody.

Mrs Caplan: That's right. We all recognize that fraud exists. What I want to know is, would you support that approach, that says, bring in a separate bill, let's review it, let's see if the privacy commissioner would support it, let's deal with fraud in a way that makes—how about using this term—common sense?

Mr Weitz: Common sense is in short supply in general in this government. I should say humane sense.

Sure, I would be interested to see a bill. Look, I'm not a legislator, I don't have any expertise in drafting. All I know is that there are too many loose ends here. If that could help close the gaping loopholes, chasms, caverns of loopholes regarding rights, fine. For myself, I would seriously consider it. Others I know who are activists, who are advocates in the community should take a close look at that.

The Chair: Thank you very much, Mrs Caplan, and thank you, Mr Weitz. We appreciate your attendance here this afternoon and your interest in our process.

Mr Weitz: Thank you. I will try, Mr Carroll, to do my best to get something in in writing.

The Chair: Okay. Send it to the clerk.

We stand recessed till 6 o'clock.

The committee recessed from 1653 to 1801.

SHALOM SCHACTER

The Chair: Welcome back to our committee. Our next presenter is Shalom Schacter. Good evening, sir. Welcome to our committee. You have a half-hour to use as you see fit. The questions would begin with the government when you're finished. The floor is yours.

Mr Shalom Schacter: Good evening. First of all, I appreciate the opportunity to make submissions to the committee and the fact that committee hearings are being held. In all honesty, I have to indicate that the task in front of us is really overwhelming and virtually impossible. There needs to be a lot more time to study all of the information in the bill. The government needs to release a lot more background material as to why all of these different revisions are being proposed. I support calls that have been made by other groups that the government should not proceed as quickly, should segregate different elements of the bill so that hearings can be held separately.

I do, however, appreciate that the government wants to begin action very quickly in the area of health service restructuring. I would offer one proposal, and that is that the government proceed initially only with the health service committee portion, as long as that body, although it would begin a study, would not in fact take any actions until there were further deliberations by this committee and by the House. But at least the restructuring committee could begin its work and then, upon final passage of other legislation in the House, it would have its reports ready and the government would then not have a delay in taking further action.

I'm going to address comments tonight to two particular schedules. The first is schedule F, and then afterwards schedule G.

Dealing first with schedule F, I think that there is merit in setting up the Health Services Restructuring Commission. I think, however, the statute should make clear that the scope of the commission should be the entire health sector and that it's not just focusing on hospitals. If there is going to be an effective allocation of resources in the health sector, it needs to be looked at as a whole and not piecemeal. I would recommend that the statute itself recognize that and not simply leave it up to the minister or the government to delegate additional powers to this commission.

Secondly, I think the commission should only investigate situations when there is already a report on the matter from a district health council and the commission should not engage in any initiative without there being already a report from a district health council on the matter.

Those are comments with respect to part I of the schedule.

I now turn to part II and I address the powers of the minister. The minister is really being given awesome powers in this bill.

Firstly, I would recommend that the statute make clear that the minister could only act after there was a report on the matter from the Health Services Restructuring Commission.

Secondly, the minister should only be able to act after the minister had given prior notice to the public of an intention to act, either in accordance with the recommendations of the commission or in some other way.

Finally, the minister should act only after there has been an opportunity of this or some other legislative committee to hold mini-hearings so that when the minister finally does act, it's on the basis of the opportunity for public input and for comments to be made by members of the Legislature. These are massive powers, and if the power is going to be taken out of the Legislature as a whole and given to the minister, then these safeguards have to be included.

Furthermore, section 9.1, which identifies the kinds of matters that the minister or the government can include in determining what the public interest is, needs to be tightened up. It cannot be left open. All the criteria that the government thinks are relevant to the determination of what's in the public interest need to be specified in the bill.

Then I would turn to subsection 9.1(2); that's the immunity from liability. I guess I find that the most questionable. It seems to me that this government, in campaigning, desired a mandate to have government operate more efficiently, more competently, yet the only conclusion I can take from this section is that the government wants to have a statutory shelter for negligence, for inefficient and incompetent regulation of a very vital public service. Again, I find this section inconsistent with the mandate that the government sought and I would urge that this section be withdrawn.

Finally under part II of schedule F, the explanatory material at the beginning indicates that there is going to be a requirement on hospital foundations to provide documentation to the minister. I think this is an excellent provision. Foundations have been funded in some part, if not in large part, by previous surpluses of funds supplied from the public purse and foundations should have an obligation to report to the government on how they intend to deal with those moneys. But I feel that the reports from the foundations should not just go to the government but should be part of the public domain. Members of the community, the Legislature, other people of the hospital community have an interest in knowing what's happening in these foundations, and the reports should not just go to the government itself.

I now turn to part IV of the schedule, dealing with independent health facilities. Others have pointed out how these changes would allow for privatization of health facilities. Again, I'm struck by an inconsistency. The government has already recognized the self-interest of members of the medical profession, and this bill contains a number of sections that will allow it to deal with that self-interest, yet the government fails to recognize that privately operated health facilities also have a self-interest in maximizing profit, and that will come about in large part through either increased cost or reduced levels of service. It seems to me before the government embarks on any initiative that would allow for privatization of health facilities, there should be some independent, professional study that identifies what possible benefits could come to the public from allowing private operation of health facilities.

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I'm also wondering why the government is moving to avoid having to have a full, advertised, open tender. Again, if the object is to have health services provided at least cost, why is it that you're not giving everybody the opportunity to put in their proposal so that the government and the public can see whether in fact the tender that's accepted is the one that's going to provide best service at least cost?

Finally, I'm struck by the action over independent health facilities and the absence of any action over private labs. If the intention of the government is to operate the health system at a reduced cost, why is the government not moving to deal with reports that it is paying far too much for the operation of private labs? Public hospitals have indicated that their labs would be able to do outpatient and other tests at less cost than private labs, and yet they're prohibited from engaging in

this type of activity. At the very least, the legislation should be amended to allow for hospital labs to compete in the marketplace with the existing labs for the services that hospital labs are now precluded from engaging in.

With that, I'll turn to the next schedule, dealing with the drug benefits. I have to say that, like others, I'm troubled by the imposition of user fees or copayments, or whatever it is that you choose to label such payments. If the intention is to reduce the unnecessary use of drugs, it seems to me a far better focus for government action would be on professionals—doctors and pharmacists—to try and ensure that drugs were only prescribed when they were medically warranted.

It's been documented that a large part of health expenses deals with seniors who have taken inappropriate drugs—inappropriate not because the doctor didn't prescribe it, but because the doctor did prescribe it. It seems to me the government can do a lot to reduce the health bill by eliminating unnecessary expenses through better monitoring of the issuance and filling of prescriptions rather than penalizing the members of the public who are taking drugs that are prescribed by making them pay different kinds of user fees.

I'm also struck by the provision in the bill that would allow the minister to say, "We're only going to pay the cost of a certain drug or procedure," and if your doctor prescribes some more expensive drug or procedure, you're going to have to pay the difference. It seems to me that if a doctor certifies that the special treatment was medically necessary, then the fact that there is a less costly but less effective or ineffective procedure is irrelevant. The government should pay for the full cost of the drug or procedure that has been prescribed, if it's medically necessary.

I'm troubled by the complete deregulation of drug costs when they are not under a government plan. I can understand the desire of the government to limit its costs from the public programs, and if it feels it's in a position to negotiate a more cost-efficient agreement with drug suppliers, then all the power to you. But why leave ordinary citizens, who do not have your bargaining market power, at the mercy of suppliers of these services? The only consequence is that their costs are going to go up and they will be unprotected to be able to do that. You should be able to accomplish your objective of negotiating a better deal for the government plan without removing the protections of caps on prices that are paid by members of the public.

It seems to me that if the government wanted to lower drug prices, one element of its program would be to lobby the federal government to repeal the actions of the previous federal government in extending the patent protection for drugs. We should move back to a shorter period of protection before generic drug suppliers are allowed to compete in the marketplace with the brandname manufacturers.

In part III of this schedule you make certain amendments to the Regulated Health Professions Act, and while these sections deal specifically with drugs, I'm struck by the failure of the government to make other amendments to the Regulated Health Professions Act that would bring

about efficiencies in cost in the delivery of health services.

One area that the government could move in would be to expand the scope of practice of registered nurses to allow registered nurses to perform functions that they are competent to do, that they have been trained to perform but that right now are within the exclusive legal ability of doctors to perform. There have been other suggestions for nurse practitioners, nurse clinicians. The nursing profession is an educated and competent profession and they can take over functions that would provide good-quality service to members of the public while at the same time lowering the government's health bill.

My final comment to you is on the section that will relieve the government of legal liability in the event courts uphold certain rulings that have been made in connection with drugs. It seems to me that this is an unjust proposal. Your federal colleagues are complaining about the actions of the present federal government which is trying to limit its liability in connection with the Pearson airport deal, and yet you are embarking on much the same course of action in trying to limit your liability here in the province.

It sets a very bad precedent. It seems to me a future provincial government could come along and try and undo many of the initiatives that your government is undertaking. For example, if you do privatize any of the health sector, a future government could come along and legislate that it's going to be once again put under the public sector and legislate that there be no compensation and eliminate any possible legal liability. I'm sure you would holler at that, and I can't understand why you feel it would be appropriate for you to try and engage in the same actions.

These are the only comments I feel able to make at the present time given the massive nature of the initiatives in Bill 26, the limited amount of explanatory material that the government has been distributing and the limited amount of time that's been available to analyse these things, although I'll do my best to respond to any questions that you have.

The Chair: Thank you. We've got about four minutes per party, beginning with the government. Mrs Johns.

Mrs Johns: Thank you very much for coming today. We appreciate all your comments and we certainly know as a government that this is a large bill and very difficult. It's difficult to restructure government and to move from the status quo we've had for a number of years into something that's a real change, so we appreciate you looking at this and offering some help to us.

The first thing you talked about was restructuring. I understand that you want the district health council involved first, as we all do, because that's the only link we have with community, and we want these to be community-driven incentives, obviously.

You suggested that you didn't want to see the commission implemented right away, I think. As you probably know, the Metropolitan Toronto District Health Council has said that it needs to have another group in there to be able to implement this process. Why would you disagree

with that recommendation by the Metropolitan Toronto District Health Council?

Mr Schacter: I'm sorry you misunderstood me. I was very clear that I'm not opposed to the immediate establishment of this commission, and I recognize that at least one district health council has called for some similar-type structure to be established. I'm simply indicating that the commission should only deal with subject matters that are covered by different district health council reports and should not go off on an initiative without there being a report, and finally, that it should not be in a position to implement any actions following this report until there is some kind of notice to the public, with the opportunity of final comment by members of the public and by members of the Legislature.

Mrs Johns: We certainly agree with most of that because we believe that it has to be driven by the consumers, and we have to have the district health council and then they have to implement those recommendations. So thank you for that.

Mr Schacter: But that should be written into the bill.

Mrs Johns: Okay. You asked me about independent health facilities and why we may not put them to tender. One of the reasons we may not put them to tender is, for example, if only one person provides the service. Let's say that a company in France comes up with a new method for doing something and they are the only people who can provide that service. If we put that out to tender, it's costing a lot of time and money for only one or two people who we know can provide the service. Possibilities? What do you think of that?

Mr Schacter: I think the fact that there is a particular process that only one company provides doesn't mean that it should be given a contract. There should be some kind of hearing, that providers of other but equivalent services should be able to say that service is not the best medically, and it's also not the most cost-efficient.

Mrs Johns: I understand what you're saying. The problem we have with that is that we're trying to do better with less, too. We don't want to bring more bureaucracy into this. We're trying to work in the most efficient, managed system. You also commented that it's the intention of the government, I think you said, to operate a system. It's certainly not our intention to operate anything, when you were talking about independent health centres. It's our intention to manage the health system and make it grow and make it accountable and look for outputs, so from our standpoint we see it a little differently than actually getting in there and operating a system.

The Chair: Mrs Caplan.

Mrs Caplan: I shouldn't put words in your mouth, but I'm tremendously frustrated when the parliamentary assistant for the minister suggests that things are in this bill that clearly are not there and that things that are not in this bill are clearly there. For example, the broad and absolute powers given to the Minister of Health, we've heard from deputation after deputation, could permit him to micromanage the system, such powers as the ability to

tell hospitals the level of service they can provide; the ability to dictate their manpower plans and the ability to actually write hospital bylaws; the fact that if he believes it's in the public interest, without any specific criteria he can send in a supervisor. If any board in any way resists his orders he can send in a supervisor and effectively take over, wipe out the volunteer board and run the hospital. That is micromanagement.

The parliamentary assistant today—and we're going to be looking at Hansard very carefully—has left the wrong impression with deputations that have come before this committee and I think that is unfortunate. I know she wouldn't want to do that and so tomorrow I'll be raising some of those and ask her to apologize and to correct the record.

What I've heard you say is that you recognize there is a need for restructuring. What I want to know is, are you aware that this legislation gives the minister absolute powers without any process from the DHC? It doesn't mention DHC reports at all. It gives the minister absolute power to decide if a hospital should close, merge, amalgamate. He doesn't even have to make that decision. He can give all of those powers to an unelected, unaccountable, restructuring commission.

What he said in a press release yesterday was that he would disband the commission, sunset it—have a "sunset review" was actually his words—in four years. But those powers would still remain in the hands of one person, namely, the Minister of Health. Do you believe that any Minister of Health should have those kinds of absolute power without any process or procedure or accountability or scrutiny, without any opportunity for the public to come before him?

And do you think that he should have the power to delegate those powers? Do you think he should have the ability to give an unelected authority—and it could be one individual from this commission; it doesn't have to be a whole group—to implement the kind of massive restructuring, even that is being contemplated at district health councils and recommended by them, without accountability and scrutiny by anyone? Is that what you're saying when you say, "I support a commission"?

Mr Schacter: First of all, my understanding of the bill is identical to yours. These are absolute powers being given to the minister, and the thrust of my presentation is that the bill needs to be amended so that the intentions of the parliamentary assistant be adopted, which means that there should be accountability built into the bill. Right now there is no accountability at all.

Mrs Caplan: Right.

Mr Schacter: The thrust of my submissions is, in a number of ways—through specifying the criteria, through eliminating the immunity from liability, through the requirement for notice and public hearings—an accountability system could be built in.

Mrs Caplan: And if those amendments are not included in this bill, should it be withdrawn?

The Chair: Thank you very much, Mrs Caplan, your time is up. Ms Churley.

Ms Churley: I'll ask the question for you. If that amendment isn't included in the bill, should it be withdrawn, in your opinion?

Mr Schacter: Yes, it should.

Ms Churley: Well, that's pretty definitive.

I was interested in your approach because I think you took a very calm and sensible approach to what I consider to be a really draconian and really scary piece of legislation that's coming forth, and regulations in many cases yet to come. I know, and I believe you expressed it, that it's very hard to analyse this bill in such a short time.

So far everybody I've heard believes that this bill should be split, because it is so big and it is so complex, so that each area can be dealt with separately and people can at least have an understanding of what's being talked about. I submit that government members, for their understanding as well—because as my colleague from the Liberal Party said, and I don't believe anybody would deliberately try to mislead our presenters here but I'm astounded by some of the responses that are given to presenters. It all sounds very nice, but in my view it's not the correct interpretation of this bill, which is quite unfortunate.

Having said that, I ask you if you would see that as a positive step to take.

Mr Schacter: There's an expression, "Just because I'm paranoid doesn't mean they're not after me." I have to agree with you that this is a very draconian piece of legislation, and I think it's important for the government to put on the record its intentions. We've heard the minister say, "Just because the power is in the bill doesn't mean I'm going to exercise it." I think it's important to put on the record in some accountable fashion the intentions of the government so that the exercise of these powers be limited to those intentions if in fact the Legislature should choose to adopt the bill.

Again I emphasize I think it is crucial for the bill to be broken down, for more information to be put forward by the government as to its intentions and for more time to be given to study the bill, although I recognize that at least with respect to the ability of the Health Services Restructuring Commission to begin its operations, it's possible to hive off that portion of it and pass that so the commission can begin its study.

Ms Churley: That's an interesting thought. You didn't get into it—do you have any thoughts on the disclosure of private information, your information? The minister can essentially give that information to anybody he or she chooses.

Mr Schacter: This government sought a mandate for less government and yet it's trying to get more powers over individual citizens' private information that should be protected. If there is a legitimate use of that, it needs to be tightened up.

The Chair: Thank you very much, Mr Schacter. We appreciate your interest in our process and your presentation tonight. Have a good evening.

Mrs Caplan: Question, Mr Chairman?

The Chair: Yes.

Mrs Caplan: I'd like to place on the record a question for the ministry to answer. We had a representation from the Ontario Physiotherapy Association—

The Chair: Can we do this at the end of the presentations?

Mrs Caplan: Sure. That will be fine.

COUNCIL OF MEDICAL IMAGING (ONTARIO)

The Chair: The next group is the Council of Medical Imaging. You have 30 minutes to use as you see fit. Question time will be divided evenly, starting with the Liberals. The floor is yours.

Dr Desmond Walker: Thank you very much. I'm Dr Desmond Walker. I'm a radiologist. I am the chief of diagnostic imaging at Markham-Stouffville Hospital, and I'm also the chairman of the Council of Medical Imaging (Ontario).

The council very much appreciates the opportunity to appear before the committee to address Bill 26, and we'd like to fill you in on some of the things the council does.

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Back in 1992, radiologists in the diagnostic imaging industry agreed there was a need to work together to address some of the issues facing the field of diagnostic imaging. The council was formed to do several things: to promote the practice of medicine in the area of diagnostic imaging; to hold conferences, meetings, seminars and exhibitions for the discussion of issues involving the practice of diagnostic imaging—diagnostic imaging, for those of you who are not aware of the latest medical terminology, includes X-ray, ultrasound, nuclear medicine, CT and MRI. We try to establish and maintain educational training programs, to initiate projects to address improved quality management practices, and to engage in medical research.

The members of the CMI include a number of professional radiology organizations as well as almost every company involved in the diagnostic imaging industry. More than 30 companies belong to the Council of Medical Imaging. This includes medical equipment companies, film companies, service organizations and pharmaceutical contrast manufacturers.

To go back a little to the beginning, when I was appointed the chief of diagnostic imaging at Markham-Stouffville about seven or eight years ago, this was a 200-bed hospital with four X-ray rooms, some nuclear medicine. The approval from the ministry was to go ahead and plan the department. It was evident to me, having been a chief in another hospital, that CT, even though many people regard it as esoteric, had a place in almost all community hospitals, because if you don't have the CT on site, what you end up doing is doing all kinds of different tests-barium meals, barium enemas, IVPs, nuclear brain scans—and at the end of the day, having spent all that money, you end up having to send the patient to another hospital with a nurse in an ambulance. It costs a lot of money, you waste a lot of time and you do unnecessary things.

So I talked to administration and we began to have discussions with the Ministry of Health and we presented

a business case for a CT scanner. If you worked out what the costs were, it became evident that it was cheaper to have the CT scanner on site than to send patients by ambulance to other facilities.

As time went by, I became involved in the Ontario Association of Radiologists and, having worked with the ministry on this, we began to talk to them about new guidelines for the CT scanners. There were guidelines like you had to have a referral base of 300,000 and so on and so forth. Over a period of time we came up with some new guidelines for CT scanners, and we worked with the Ontario Hospital Association, the district health councils, the Ontario Medical Association, the Ministry of Health. I think we're beginning to show here that we can all work together. I think it's important to remember that.

We presented some principles about who should have the CT scanner and the use of it and so on and so forth. Briefly, you had to demonstrate the need for a CT scanner, that you had the kind of workload that required it. You had to have the support from your local community, such as the district health council; assess the impact of the CT scanner on the region's health care services; and show the ministry what the financial implications were and the hospital's ability to finance the cost without incurring a deficit as far as operational costs were concerned. As you probably know, the capital acquisition costs are the responsibility of the local community.

We developed clinical guidelines, because in smaller hospitals people did not know how to use this modality; it was a strange, different beast, and they'd been used to ordering all the routine tests. Now they had to be taught how to go straight for the jugular, how to go straight for the CT and save all the unnecessary things. A quality assurance program was important, even beyond what's required by law in the HARP Act. There was also an annual report to the Ministry of Health to show what patients had been done, what the types of diagnoses were and what the financial implications were.

We feel this approach is very beneficial. For the first time, we felt that as physicians we were able to talk to people in the Ministry of Health. Before that we didn't know who to talk to. We would send a proposal; it would lie there gathering dust on a desk. We didn't know who to talk to, and we felt we were making a lot of progress. Having gone through all this process, what we felt we had achieved at the end of the day was that we had a consistent decision-making process. We had CT scanners where they were needed. Their use was managed. The ministry knew what the costs were. It took away the feeling that every time you had to make a decision, you had to go to the top. It enabled people on the ground the troops, if you will-to make that decision. More importantly, it standardized the ministry's policy for approving and operating CT scanners.

I have to tell you, from beginning to end this process took four months, which I think is the speed of light as far as the ministry is concerned. The person we worked with was eventually promoted to another job, I think in recognition of the good job he had done working with us producing these very sensible guidelines.

The ministry now regards CT as a routinely used technique, and that one per 300,000 population has gone. The waiting list for CT scanners has been dramatically reduced. People were waiting six months, almost a year. Now my own hospital, the waiting list is two or three weeks. Other hospitals have longer waiting lists, depending on what their referral base is. Since this policy was approved, there have been approximately 19 approvals for CT scanners.

The access is just—it's used as an ordinary diagnostic imager modality. In my own hospital, for instance, all our technologists are trained to do CT scans. If a patient comes into the emergency department on the weekend, the technologist on call does a scan. We don't have to have a standby technician, to bring somebody in to do it at great expense. It's just a routine part of the study. Actually, the cost of doing a CT scan to the Ministry of Health is approximately \$1.50 more than doing an X-ray of the skull, which is a completely useless examination. It means that we can move on and get a quicker diagnosis, and the patients can get treatment and have a better chance of having successful therapy. That really is the important part of it. We really want to make sure our patients are getting the best treatment as economically as possible.

Having developed a business case for CT, it was evident to us that we should talk to the Ministry of Health about a similar approach to MR scanning, because looking back two, three, four years, there were only 12 MR scanners in the whole of Ontario. At this time, the Council of Medical Imaging had come into being and felt it was a project they could help with financially, but also provide background material and inform us of what was happening in the rest of the world, because it's very easy when you're living in a certain milieu to think that's how the rest of the world operates, and that isn't exactly true, actually, as I'll show you towards the end of this talk.

In fact, when we approached the ministry about this, they said: "We're glad you talked to us; we're glad you called us. We were just getting ready to develop new guidelines for MR scanners." All the teaching hospitals in the province had an MR scanner and they were thinking, well, you know, "It just seems reasonable. How do we broaden the scope now?" We had a very collaborative relationship with the people in the ministry. We shared our information with them. In fact, when we said to them, "We're working on this document," they said: "That's great. Let us have your document when you have it." We said, "When do you want it?" They said, "Well, it would have been great to have it yesterday." We let them have that document within about four weeks and, as you know, approval in principle was given several months ago for additional scanners.

We believe the imaging modalities to examine patients should be available in such a way that the most appropriate test can be done when the patient is either booked for an examination or arrives for an examination. Basically, that means the imaging modalities should all be available on the same site.

In Ontario, for instance, since CT scanners are only available in public hospitals, we feel that MR scanners should be located similarly, because there are many tests

that can be done by either modality but there is an optimal test for each condition. For instance, much of the neural work, if you have good access to MR scanners, should really be done by MR, but if you're going to have to wait three months or six months, people feel it would be reasonable to go to a second-best modality, and maybe eight times out of 10 you'll get the right answer.

A similar thing was happening with MR that was happening previously with CT. They were going through a series of tests without getting the answer, instead of going straight to the MR scan. MR is magnetic resonance imaging; it used to be called nuclear magnetic resonance, but the phraseology now is MRI scanning.

If there were a reasonable number of MR scanners available in the province, it would give the patients in this province good access to this modality regardless of where they lived. The people in northern Ontario have no access to MR scanners. They're going to the States, they're coming down to Toronto, at great expense, I might add. I think the MR scanner would reduce the utilization of CT scanners, some nuclear medicine procedures would be reduced, and some surgical procedures would be reduced, like diagnostic arthroscopic surgery, where the surgeon puts a wide needle into a joint and looks around to see what's happening in the joint. That's a pretty painful thing to have. If you can do it on an MR scanner, which is non-invasive, with no radiation dosage, just a 15- or 20-minute examination tells you what's happening and you can avoid that hospitalization, that surgery and so on and so forth.

It improves the quality of patient care, getting the right diagnosis as quickly as possible. We have many horror stories of patients who have gone through many uncomfortable procedures when a simple MR scan could have given them the diagnosis. Patients with blocked spinal cords have to have a myelogram, which is an invasive procedure, it gives them a terrible headache, and it doesn't give you the answer every time. An MR scan would give you the answer right away.

It also reduces the cost of patient care, because many MR studies can be done as outpatients rather than admit a patient to hospital for another procedure.

When we looked around the country, when we looked around the world, we realized that Ontario was an undeveloped country as far as MR scanners were concerned. I think we all believe that perhaps in the States there is an MR scanner on every corner and maybe that's too much. But maybe we should be compared to the European countries, where they have a scanner ratio we should be aiming for. We'll come to that later on.

We strongly support the fact that it should be available in a hospital because you need access to other imaging modalities, and when the patient comes in you may change the test you're going to do because you find something in another test that might help you decide which way to go. We do not think standalone facilities are the way to go because a patient arrives and the people on site there don't know what the patient's had, and half the time they don't take their other examinations. You find, if you read the American literature, that it's a disaster. It's not good patient care.

As I said, there was an announcement that an additional 23 scanners would be approved in the province of Ontario. This will considerably decrease the waiting list and improve the access. As I said earlier, central nervous system diseases are optimally studied by MR, and things like prolapsed disks in the spine are better imaged by MR than CT.

Access is so bad in Ontario that for many conditions in which it's very useful, like abdominal imaging, even breast imaging, it is almost not done because there's not enough equipment to do the things other than the breadand-butter stuff. If you look outside, there's a lot of literature about things like that, and we're just not even able to do it. In cancer patients, for instance, MRI is very useful, but it's not used very often because MR scanners are taken up doing the head work and the spine work and there just is not facility to do the other things.

I'm not sure whether you're aware of what the background is to the approval process, but this is virtually a no-cost option to the Ministry of Health. Capital costs will be borne by the local communities. There is a \$150,000-a-year operational cost given to each MR unit, but this is money which is now largely being paid out anyway for additional shifts by the teaching hospitals to run their units over extended hours, weekends and so on and so forth.

There are no other technical fees for this procedure. That's all the hospitals will get. They will have to find the additional operating costs from within their own budgets, and the hospitals have indicated they can do this because they see savings elsewhere. As far as professional fees are concerned, that will not be an additional cost to the ministry because it will come out of the global pool.

There will be savings to OHIP because of other tests which are not done, like CT scans, like myelograms. In London, for instance, they do virtually no myelograms, because they have good access to MR, but in Ottawa, there is one hospital which does 750 myelograms per year because they have virtually no access to MR. This is the kind of barbaric process we're doing in our medical care system because we don't have access to civilized investigative methods.

As I say, it's a no-cost option as far as the government's concerned, and it provides superior patient care. This process is moving slowly through the ministry. There is no reason it should not be approved quickly and we can get on and provide decent care for our patients.

What the CMI has done—there's no point in just going out and buying an MR scanner. There are a lot of things: How do you choose the right one, are there enough people trained to operate it, and so on and so forth. We've addressed all those issues. We are developing a technical checklist for people to select the appropriate equipment. We are arranging seminars for radiologists, technical managers and administrators on how to most cost-effectively purchase an MR scanner.

There's a network of MR radiologists in teaching centres who are ready to help in the decisions. There are new radiologists graduating every year who are trained in MR, and they're going to the States because there is no capability to practise what they have been trained for in

Ontario. One thing we had to make sure is that there will be facilities for radiologists to be trained in Ontario when these scanners are approved.

Again like CT, where MR is most appropriate, it means quicker diagnosis, more accurate treatment, saving money if a patient's lying around in a hospital bed, and avoiding a lot of radiation exposure. CT is a tremendous diagnostic tool, but it's really quite a high-radiation test. It disproportionately produces radiation that goes far beyond the number of scans that are done, but it's the only way we can diagnose things at the present time, whereas MRI is completely non-invasive and there are no adverse effects.

I think the lesson to be learned from this is that we have shown as radiologists that we can work with different people. We can work with technologists, we can work with the OMA, we can work with the OHA, we can work with the ministry, and we can work together and produce something that's really worthwhile, like this MR business proposal. We strongly urge the Ministry of Health to go ahead and approve these MR scanners so we can begin to produce the health care system that is appropriate. We're not suggesting anything inappropriate.

I'll pull this block schematic out now, which was provided by—it's a little free advertising for Siemens here, but they produced these figures. This is one of the many pieces of factual information they provided; they provided information on operating costs and so on.

At the left of the graph, it shows how many units there are per million population. Japan is the highest, with 18 units per million population. The US is next. Somewhere in the middle is Germany, Italy, Spain, Korea. Down at the bottom, what do we see? Turkey with 0.8 MR scanners per million, and who do we see next to Turkey? Ontari-ari-ari-o. I have to tell you the Ministry of Health officials were shocked when they saw those statistics, but unless you look around you, look in other countries, other provinces, you're not aware that this is happening. You tend to think what's happening in your province is the norm, and it isn't.

I also have to tell you that since this graph was produced, Turkey's bought another four scanners, and we think we're behind Turkey now.

This is the kind of document we've produced. There are proposed guidelines, a position paper. We outline the benefits of MR, the different field strengths and so on and so forth, clinical indications. This was sent to every radiologist, to every hospital administrator. We're all ready to roll on this, and we hope the ministry will move ahead and approve these scanners, because it doesn't cost them anything to do it. Thank you very much.

The Chair: Dr Walker, thank you very much for your presentation. You've used up all the time allotted to you, so there's no time for questions, but we appreciate your interest and your involvement in our process.

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ONTARIO NURSING HOME ASSOCIATION

The Chair: Our next presenter is the Ontario Nursing Home Association. Good evening, ladies, and welcome to our committee. We appreciate your attendance this evening. You have a half-hour of our time. Questions,

should you leave time for them at the end of your presentation, will begin with the Liberal Party. Identify yourselves, please, for Hansard, and the floor is all yours.

Ms Dianne Anderson: Good evening, ladies and gentlemen. My name is Dianne Anderson. I'm president and chair of the Ontario Nursing Home Association. In my working day, I am administrator of the North York General Hospital seniors' health centre and a vice-president of North York General Hospital.

Thank you for this opportunity to present our views on this important piece of legislation. We were called yesterday to present today, so we have concentrated on only a couple of issues.

We wish to applaud all parties of the Legislature for their role in this regard, the opposition parties for their persistence in ensuring a public debate, and the government for listening to them by holding these hearings.

Ms Shelly Jamieson: Good evening. My name is Shelly Jamieson. I'm the executive director of the Ontario Nursing Home Association.

ONHA is an established provincial association providing professional leadership to the long-term care sector. The association has a membership of over 302 nursing homes, which represents over 90% of the province's nursing home sector. Our member homes accommodate about 28,000 seniors and employ in excess of 27,000 people, and that makes us a pretty key element in the long-term care system in Ontario.

We're going to focus our attention this evening on the health care components of Bill 26, specifically sections F, G and I.

By way of background, we are appearing before you today to support the government's initiative in introducing this act. While we have some concerns, we are reminded that we have typically had comments on every piece of legislation introduced in the last few years. We appreciate this chance to participate and hopefully to influence positive change.

Frankly, we believe our health care system is broken. We believe that anyone defending the status quo in health in Ontario is a dinosaur. While the June election might have introduced a new style of government, it did not introduce this serious problem in health care. In fact, we would hope that the definition of the problem would be an area where there is three-party unanimity.

The style difference which I referred to just before is primarily one of speed of action. We applaud the swiftness of action in providing the health care system with the tools necessary to meet the challenges ahead.

Of course, with haste can come errors. It is apparent that some of the provisions of Bill 26 are not yet fully conceived. We hope that when this committee finishes its mandate, you can agree to productive suggestions which will advance the goal of an improved health care system. ONHA believes that there is enough money in the health system, but we must, as a society, use the resources we have in a more prudent manner.

Ms Anderson: I'd like to refer to section F of the bill, which specifically speaks to health services restructuring.

We support the coordination of the many restructuring exercises and their approvals by the Health Services Restructuring Commission. We suggest that the commission have a broadly based membership to counter and balance the often dominant world of hospitals and the medical model generally.

In our opinion, hospital restructuring needs a kickstart. There has been much credible and detailed work done to date. Within hospitals, there has also been a lot of reengineering work done, resulting in closed beds, shorter lengths of stay, shared services and even new revenuegenerating enterprises. These are new ways of doing old things.

To really restructure the system, however, resources, including people and funds, have to be reallocated. We have to do new things with our system. This, we would argue, is the tougher work. Bill 26 provides the framework for this restructuring. It may not be popular, but we believe it's necessary.

An example of how far we have yet to go is in long-term-care facility funding. The Liberal government, then the NDP government, and now the Conservatives, all agreed with the need to reinvest from chronic care to long-term care. Yet still today there is resistance, even at the senior levels of the bureaucracy, to make these changes. We run into this resistance every day at the provincial level and in community settings.

Ms Jamieson: I'd like to take a bit of time to talk on the topic of the independent health facilities covered in Bill 26. On this topic, we would support, and have consistently supported for a long time, the notion of best quality for most responsible price. We believe that those who oppose this concept undersell Canadian companies.

In today's global market, Canadian companies compete and win contracts on the basis of their expertise and knowhow. Look at the previous government's interhealth initiative as a glowing example. One example in our own industry is Extendicare's reputation as a health care provider in Canada, the United States and the United Kingdom. Companies which cannot compete in a Canadian competitive environment, or indeed the world stage, probably don't have a place in the next 10 years in our system, because they are neither leaders nor innovators.

Ms Anderson: Section G also has some sections relating to drug benefits. I would like to address these changes as they affect our environment. We believe Ontario is the last province to introduce cost-sharing relative to prescription drugs. We concur with the concept, for those persons who are able to pay. We see two benefits: first, there is the much-needed revenue for the government, and second, and likely more powerful, is the notion that this nominal charge may signal the need to alter behaviours and attitudes of health care consumers and perhaps some of the medical profession.

To call this charge a new user fee is a misnomer. As we all know, user fees are not allowed under the Canada Health Act, but the Canada Health Act does not state that medications are free. If it did, mine would be free, and they aren't. However, the implications of those changes to drug benefit coverage for residents in nursing homes are less straightforward than they first seem. Residents

will be charged \$2 for each prescription filled, including renewals. This charge will come from the residents' so-called comfort allowance of approximately \$112 per month.

We have several concerns. First, residents in nursing homes take an average of five prescriptions per day. While many drugs are covered by the Ontario drug benefit plan, residents are increasingly paying for more of their own medications as drugs are delisted by ODB.

Second, the impact of changing behaviours of our residents as consumers will be negligible. Seventy per cent of our residents suffer from cognitive impairments, preventing them from participating as consumers in such a transaction. Many others suffer from a multiplicity of diseases which are chronic conditions. Their medications are complex and multiple.

Third, who will collect all of these \$2 invoiced amounts? The job of nursing home administrators is currently encumbered with red tape, so it won't be us.

Fourth, what will pharmacists do when a resident does not pay? Will the pharmacy stop supplying the medications? Bad debts from unpaid resident accounts is already a serious issue in nursing home operations.

Will doctors, who know family circumstances, perhaps not alter medications as frequently as they might have otherwise? Often great success is achieved by the medical profession when they experiment to find the best medication mix for residents. Remember, our residents are on several different medications, which can be constantly changing either due to the chronicity of their disease or the unstableness of their condition.

We recommend that residents of long-term-care facilities be exempted from this change to drug benefits. We query whether the administrative headaches, which cost money also, will make the revenue worth the effort, and we are not likely nor inclined to change the consumer behaviour of an 85-year-old.

Ms Jamieson: In section I you've laid out physicians' services delivery management issues. We believe, quite frankly, that it is the mandate of the Minister of Health to ensure coverage for all Ontarians. In what locations doctors practise has been an issue for ages, and it seems to us that voluntary solutions have more or less run their course.

Taxpayers pay to train doctors, since their education and their training is heavily subsidized. It seems reasonable to ask that the minister have a say, at least in the short term, in where new doctors practice to alleviate the situation and provide coverage for all Ontarians.

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It's interesting to us that there is a parallel issue in the nursing home sector. If the Minister of Health wants more beds in an area, he or she issues a call for proposals. There aren't incentives or enriched rates. If you want to provide nursing home services, that's where you go to provide them—where the minister has designated in the area. If the minister doesn't want any more long-term care beds in an area, he or she doesn't approve licence transfers. After all, he or she represents the payor.

We hope, in any event, however these issues are resolved after these hearings, that this bill provides an incentive for government and physicians to improve their relationship. We believe the relationship of the last few years has not served Ontarians well.

In summary, we suggest to the government that it tie the broadly based powers—they seem to be the ones which are making the people most uncomfortable—to the task of restructuring. This could be accomplished either by setting a time frame similar to the social contract legislation, which in our opinion also took broad liberties, or by empowering the government only to use certain powers when pertaining to restructuring issues and not for other issues.

Every time we as an association suggest reform to this government, we are met with a litany of obstacles which prevent the actual reform. The tools for both employers and the government are necessary for the type of massive reform which we believe is ahead of us. In addition to the topics we've mentioned this evening, we endorse the notion of a message to arbitrators, the notion of clarification of pay equity and the provisions to support the development of an information technology framework specifically for health. In removing these obstacles, however, we recognize that we must be diligent that we don't unwittingly compromise the integrity of the health care system, which is so important to all of us.

We thank you for your time. As you can see, we've left ample time for your questions.

The Chair: Thank you. We have about five minutes per party, beginning with Mrs Caplan.

Mrs Caplan: Thank you for a very comprehensive and thoughtful brief. I'd like to ask, Mr Chair, if the ministry would respond to the questions that were raised in this brief, beginning with who is going to collect and so forth. I want to make a couple of points. I don't know that it is a question; I think it is something that I'd like you to consider and then, if you want to make further representations to the committee, I would appreciate that.

You seem to be under the impression that the \$1.3-billion cut in the hospital transfers somehow is going to find its way in a reallocated process, some of it going to long-term care. It's gone to the tax cuts, and that's the reality. The reality is, they promised a \$5-billion tax cut and so the dollars that have been taken from the hospital sector are not going towards balancing the budget, are not going towards debt reduction and are not going towards long-term care.

If you're under the impression that the economic statement tabled by the Finance minister had a bottom line on it that included all of those reductions from the Ministry of Health, I just wanted to point that out to you, because a lot of people think, "Well, the copayment or the user fee for drugs is going to go back into the health system or into health care." That's not going in; it's going into that big, consolidated revenue pool from the Finance minister, because they see it as a \$225-million saving which they're taking out of the allocation from the Ministry of Health. That's what the Finance minister said. So you should be clear that this is not part of a reallocation.

The other thing is that the \$17.4-billion commitment that they make is a \$500-million reduction from the present spending level. So that is a real and absolute cut, and their commitment to maintain that \$17.4-billion level at the end of their mandate, everyone is aware their intention is to move Comsoc programs into health. So if I'm posing suspicions, it's because that's the rumour, that's what everyone is expecting will happen. In order for them to increase the allocation back to the Ministry of Health, they'd either have to increase their deficit financing and borrow more or raise taxes, and they've said they're not going to raise taxes. So there's no revenue pool out there. I wanted to make sure you understood that.

The other thing is that when you talk about the powers that the minister has and their relationship to restructuring, I have concerns as a former minister because I don't believe that any minister needs all of those powers. I think that restructuring could be accomplished without the minister telling every hospital what their manpower plan should be, and he has that power. I think that they could accomplish restructuring without him having the power to tell every hospital what program they can provide, what program they cannot provide and what service level of that program they can provide. That's micro-management of the system; that is not just restructuring.

The other point I want to make is that there will be ongoing and continual need for rationalization of service, for shifting of how services are delivered as new technologies come. I'm telling you that future ministers will be able to argue that if those powers were given once for the purpose of restructuring, the term "restructuring" is so broad that, if this minister gets all of those powers as presently contained in this bill without restriction, I think you should fear how those powers will change the nature of delivery of our health care in this province, which has always been on the basis of the minister as perhaps a partner. Although, frankly, I remember the day when a hospital board chairman said to me: "Who invited you to be the partner? We liked it better when you were just the banker." I told him if I were just his banker, he'd be in receivership. So the nature is changing from just the minister as a partner in management to having absolute, total control and absolute power.

While I listened very carefully to your presentation, I'm not sure that you realize all the implications in this bill and I hope that you will reconsider your support for all of the aspects of it, with the few exceptions.

The Chair: Thank you, Mrs Caplan. Your time is up. Ms Churley: I believe you said in your presentation that you were just asked yesterday to come today, so I think that in a very short time you've pulled together very quickly, and I appreciate that. But I also think it indicates part of the problem that we've been hearing from all presenters—that there's been very little time to deal with such a comprehensive bill and all of the ramifications. Certainly, now that we have further hearings in January, there'll be more time for people to analyse the bill a little better.

One of the issues that you raised briefly was long-term care and that previous governments have tried, and we

were certainly almost there—and not without controversy, I know. There was controversy in my own community, Riverdale. But something that our government did recognize, and I think all do, is that while trying to save money in the health care system and reallocate it with an aging population, especially if hospitals are to be closed, we have to reallocate the dollars into the community and into long-term care.

One of the concerns I have, as my colleague said, is that we have absolutely no evidence that this money is being reallocated. On the contrary, what we're seeing is that there's a huge, multibillion-dollar tax cut that this government has to find the money for, as well as eliminating the deficit. That, frankly, is our fear. We cannot see that there's any possibility of reallocating that money.

I want to ask you briefly further about the drug issue. It's a concern of mine, and all of the presenters that I know of have expressed concerns, particularly about seniors. Whether you call it copayment or user fee—let's forget about what we call it for a minute—I think that question does have to be answered.

Another concern I have, for instance, is homeless people, many of whom are mentally ill-some are schizophrenic, some have other problems—who go to hostels like Seaton House. As you may know, sometimes the patient is not given the prescription directly, but workers at Seaton House will send that prescription right to the pharmacy, so that the person does get the drug and will take it, because in some cases they are incapable or don't have enough money, or whatever, to get the drug themselves and take it. This is another serious problem, as well as the one you raised about seniors. I don't know if you have any thoughts on it but certainly we need that question asked. Who's going to pay that \$2 fee for those people? How is that going to be dealt with? Are we going to have certain people on the streets and in shopping malls and in other locations having serious medical conditions because they're not taking their drugs, which ultimately will cost the system more?

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Ms Jamieson: Mr Chairman, are we able to respond to these questions?

The Chair: At some point in time, I think we'll give you a chance. Yes, you can answer this question.

Ms Jamieson: I can answer this one? Thank you very much. Relative to user fees, I just want to be clear: We spoke specifically about residents of long-term-care facilities. I can't speak, unfortunately, to the situation of Seaton House, although I'm sure there will be people who will appear and address it who are more familiar than I am.

We are not opposed to charging seniors the fee based on their ability to pay, and we think it's an important signal, based on our understanding of the kinds of signals we have to give to people about how they're going to utilize the system.

Our concern is the \$112-a-month comfort that our residents are left with. Frankly, we don't see anybody gaining admission to a nursing home to avoid a prescription fee; this isn't going to be a dodge. We're concerned about the administrative elements and the number of

medications and scrips which our does can only prescribe for a period of time, although someone might be on a prescription for the rest of their life while they live at our facility, and the chronicity and the complexity of our residents.

We're quite concerned about the volume. We did some calculations. We were looking at maybe 10% of their \$112 might end up going on a monthly basis. That's a big hit, and that's a much bigger hit than the \$2 or \$14 estimate that had been given previously for people in the community. So I just wanted to make that differentiation.

The Chair: For the government, Mr Clement.

Mr Clement: Thank you for your presentation. I guess all members of the Legislature were looking forward to these hearings, but I was looking forward to hearing from you rather than making speeches, so I'll actually ask you a question, if you don't mind.

The issue for us is restructuring the hospital sector to address some of the areas in the system that aren't getting the money they need. Assuming that we can restructure—this bill goes through—how would you like to spend the resources that are freed up in your sector?

Ms Jamieson: We wouldn't necessarily only spend them on our sector. We would invest in community-based services and invest in our aging population, the future of our population.

One of the accidents that quite frankly happened is that when Bill 101 brought in the new funding model for long-term-care facilities, through a mistake, really, and a change in the inflation rate and a series of other things, it was underfunded. That remains today. There's not enough money to do the job that the law says we should do, that we're all prepared, with homes for aged, to step up to the mark and do. In the health care budget, we're not talking about a lot of money, but we are talking about something between, say, \$25 million and \$50 million that needs to be reallocated to make the facilities function in the way that was envisioned.

On the community services side, we're looking at a much more massive expansion that all governments, I think, have endorsed, to make sure that seniors are able to get the services they need. Right now, many of the services provided in the community are operating on what I call shoestring budgets, and that's not going to get us through the time ahead. So we just think communities tend to be conditioned to look at the bricks and mortar of hospitals as the central focus of their system. We'd like them to start to look at health as in being healthy and in terms of getting services all over the place. It's going to take a shift from that medical model and the hospitaldominated discussions at district health council levels, all the way through the system, even within the Ministry of Health, frankly, so that we can get to talking about solutions that'll really work for all of us as a society.

Mr Clement: I might add that Mrs Caplan is tragically wrong when she says that the money that we save is going to go to the tax cut. In fact, it is going to be reinvested in the system. Given that fact, are there things in terms of the delivery of the services that you just mentioned that you see as a priority for the government?

Mrs Caplan: Where is the reserve fund?

The Chair: Mrs Caplan, when you were speaking, he didn't say anything. I expect the same respect.

Mrs Caplan: I apologize, Mr Chair.

Ms Jamieson: We are eternal optimists and we are hoping that this government will keep its word and reinvest in various components of the health care system. We were a little surprised by some of the shifting priorities and we were a little alarmed by the economic statement, but we believe that the minister continues to be clear about his intent to reinvest.

We would see long-term care facilities as a number one investment priority—at least one or two on that list—and we hope that we'll be able, in the facility world, to do the things for half the price that are done currently in chronic care and acute care settings. We're all set to do IVs, tube feedings, all the various things that are now in law. It's really unusual to have the law ahead of the practice, I find. Just an observation.

The law is in place. We're ready to step up to the mark. We're spending 48 cents a day on nursing and medical supplies per resident. Can't do it; can't be done. We need to be invested in so we can get on with our job. You'll see savings at the other end of the spectrum.

The Chair: Thank you very much. We appreciate your presentation tonight and your interest in our process. Have a good evening.

TORONTO CONFERENCE OF THE UNITED CHURCH OF CANADA

The Chair: Our next presenters are the Church in Society Committee of the Toronto Conference of the United Church of Canada, represented by Sheila Brown and Bob McElhinney.

Mr Clement: Mr Chairman, I have the responses from the ministry to the questions that Mrs Caplan asked.

The Chair: We will deal with those when the presentations are finished.

Good evening and welcome to our committee. You have a half-hour to use as you see fit. Any questions, we will start with the New Democratic Party at the end of your presentation. The floor is yours.

Ms Sheila Brown: This is a submission of the Church in Society Committee of the Toronto Conference of the United Church of Canada around the proposed Bill 26.

"The purpose of the bill is to achieve fiscal savings and promote economic prosperity through public sector restructuring, streamlining and efficiency and to implement other aspects of the government's economic agenda." That's a quote from Bill 26, explanatory note, page 1.

The government of Ontario has acceded to the petition to hold public hearings on Bill 26, the Savings and Restructuring Act, in Toronto, December 18 to 21, 1995. As a community of faith, Toronto Conference of the United Church of Canada believes that three questions must be answered if Ontario is to be a healthy democracy as well as to have economic prosperity.

First: What dignity do we ascribe to citizens of Ontario and what place do they have in society?

We hear different voices and experience contradictory actions in the midst of the Common Sense Revolution initiated by the present government.

I quote from a letter from Premier Harris to the president of Toronto Conference, November 23, 1995: "I would like to assure you that our government remains committed to supporting the most vulnerable in our society."

Another quote from a letter from J.S. Gilchrist, MPP for Scarborough East, November 23, 1995:

"It's important that all of us, government, churches, businesses and volunteer agencies, move quickly to find the only thing that will give dignity to those trapped in the cycle of welfare, namely, a job.... Already, in the last three months, almost 100,000 people who were on welfare have left that support and, presumably, found employment."

The Christian community has always believed that the dignity of each human being is a gift from God the Creator. To categorize people because of their economic status is a denial of this God-given dignity and therefore a blasphemy. The fundamental question for any society is to find ways to respect God's gift of dignity by ensuring that the basic needs of people, especially young children, are met.

The recent severe cuts in welfare grants and the continuing reduction of hand-up services are clearly reducing the health and the dignity of hundreds of thousands of people. The dignity of all citizens of Ontario is threatened when the least among us are blamed for the debt and targeted for cost-saving measures while large corporations, especially banks, make excessive profits.

Some 2,000 years ago, Jesus Christ offered humanity a different view of the dignity and the place in society of those with the least power and the least resources:

"When you give a banquet, do not invite your friends or your relatives or your rich neighbours, in case they may invite you in return, and you may be repaid. Instead invite the poor, the crippled, the lame and the blind. And you will be blessed, as they cannot repay you." Gospel of Luke, chapter 14, verses 12 to 14.

We experience the dignity of many citizens of Ontario being not simply ignored but increasingly demeaned. Recent cuts in welfare grants affected 1.3 million people, including over 500,000 children. The dependence on food banks has increased by over 95%. Over 80% of the children served by the children's aid society are from poor families. Proposed user fees in many areas will restrict, humiliate, many people from using services now available to all. Agencies which have given people a hand up for decades are facing severe cuts prior to any alternative being in place. Volunteers, such as church members, are scolded for not doing more while also being turned away as they seek, peacefully and non-violently, to speak to the government.

When we respect God's gift of dignity to all humanity, we are led immediately to consider a second question.

Mr Bob McElhinney: As a community, how do we listen to one another and how do we come to a common mind for the common good?

Consultation among people is essential to the process of coming to a common mind, particularly when there are significantly different understandings of what is the common good and how it can be achieved. The provincial government is calling on churches to fill in the massive gaps left by the drastic cuts to the social security system. The pace of these changes and extent of the reductions are making it difficult for churches and community agencies alike. Churches have done creative work in low-income communities where values of fairness, human dignity, sharing and interdependence are emphasized. We are loath to return to an old charity model which creates dependency and diminishes self-worth.

As citizens and as a church, we have experienced virtually no willingness on the part of this government to consult, either with those affected by policies or with those who have the experience to offer insight and constructive alternatives. Without a process of genuine consultation, the community as a whole cannot be of one mind and, therefore, is limited to a strategy of protest.

Bill 26 illustrates perfectly different understandings of what constitutes consultation. The word "consultation" has three accepted meanings:

- (1) Making a decision unilaterally but informing those affected by the decision before it is implemented.
- (2) A body which has the authority to make a decision invites all parties which might be affected to share insights and discuss the merits of alternatives. The inviting body then withdraws to make its decision.
- (3) A body which has the authority to make a decision invites all parties which might be affected to share insights and explore alternatives. The bodies continue to meet until they achieve a common mind at which time the inviting body accepts the common mind as its decision.

Bill 26 in its present form clearly opts for an understanding of "consultation" which is based on an enormous concentration of power in the cabinet; no need to consult with persons or bodies affected prior to making fundamental changes in the structures of society; a willingness to make decisions with such rapidity that it allows for no alternatives to be presented or considered.

If decision-making is done without need for meaningful consultation, then a third question needs to be considered.

Ms Brown: How will people and institutions in Ontario exercise effective stewardship of their resources?

We are confronted daily with sad illustrations of how it is proposed that economic prosperity will be achieved. The total of the proposed personal income tax breaks for the chairmen of the five largest banks is \$462,000. This tax break is made possible by reducing the welfare cheques for 290 single mothers and their children. As each social service program is reduced or eliminated, the long-range projections are that the cost to society will increase significantly both in dollars and in suffering.

Within the Christian tradition, stewardship means accepting the resources freely given by God and sharing them so that all will benefit. There are communities with vast resources where many go without food, shelter or

hope. We also know of communities such as the aboriginal village of Kispiox, which happens to be in northern BC, which has 85% unemployment, where no one goes without food, shelter or support because everything is shared.

Bill 26 proposes to amend the Ontario Drug Benefit Act, allowing user fees and scrapping regulation of drug prices generally; amend the Municipal Act, giving the Minister of Municipal Affairs unilateral power to restructure municipalities; amend the Pay Equity Act, impacting 80,000 of the lowest-paid women in Ontario, including day care workers, nursing home assistants and children's aid workers; amend the Mining Act to give mining companies more freedom to be less constrained by regulations regarding environmental concerns; amend schedule K to raise fees for freedom of information requests, making it easier to deny requests for documents and making it harder to win an appeal; open the door to user fees for vital public facilities, such as libraries and recreation centres.

Stewardship deals with the sharing of resources, openness to information and consultation, and commitment to just decisions. In its present form, we believe Bill 26 does not promote good stewardship, either for economic prosperity or human relations.

We believe that our province needs much more of a common mind on the three questions we have raised before Bill 26 should be enacted in any form. Until the concern for human dignity is seen as integral to any plan for economic prosperity, we cannot support the intentions or the implications of Bill 26.

The Chair: We've got about six minutes per party for questions, beginning with Ms Churley.

Ms Churley: I would like to thank you for coming to present to us tonight and in general would like to thank the church community, particularly lately, but I know all along there have been some voices out there, for speaking so loudly and clearly. You carry a moral authority that I think is extremely important to be heard out there now, which will cut across all political party lines and all political forces out there.

This government tends to refer to people who disagree or groups who disagree with their policies as special-interest groups. Of course, banks and financial institutions aren't called special-interest groups and, in my view, they're the biggest ones out there. Boy, are they raking it in. But having said that, I think everybody, including this government, will have concerns about calling our churches special-interest groups. Indeed your churches are special-interest in that you have concerns about the poor and the disadvantaged in our society.

I noted with interest on page 4 of your brief that you gave three definitions of "consultation." Certainly, something that we're hearing over and over again is that this government is taking your first approach. What we are hearing from people is that this bill is so complex and so huge that it's very difficult, in fact impossible, to analyse the whole thing, and they would like to see the bill split into various components and people be given more time to analyse and deal with the different components separately.

How do you feel about that? Do you think that would be a good approach and perhaps might lead to your second and third approaches to consultation?

Ms Brown: I think it's essential that the bill be split up because it is so complex and people cannot deal with it in its entirety. There are so many little aspects, and one thing impacts on another.

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Mr McElhinney: I'm a community minister with the United Church working in a low-income community in the west end of Toronto. I've seen the impact of the government cuts, of actions that have been taken since last June on my community, on the people, the drastic impact on poor people, people on fixed income, on agencies that have been affected so that community supports have been weakened.

In answer to your question, the implications of the act affecting the relationship between the province and municipalities is a whole issue in itself, when poor people and marginalized people, affected as drastically as they've been affected the last six months, are then confronted by things like user fees for libraries, let alone the whole implications for health care. There just is no margin for these people now to be able to cope. There's no choice. We really have to start to think of the implications of what is being done.

Ms Churley: I have heard some members of the government today say that this government really does care about children and poor people, and you will hear this a lot, that we have to deal with the debt and deficit because otherwise we won't have the health care system and the social programs we have today, that there has to be some suffering now in order to make sure the care is there for people down the road. I'm wondering what you would have to say to that comment, given what you see on the front lines now.

Ms Brown: Are we to sacrifice this whole generation of women and children for the future? That's my first reaction. The other thing is that we have to think of our definition of health. Health is not just the absence of illness but health encompasses the determinants of health, the things that determine how healthy we are: adequate housing, adequate income, social support, a safe environment, peaceful communities. These are all things that have an impact on our health, and if we don't have those—I see, with the implications of these cuts and changes for people, that we are not going to have communities as safe as they were before. We're going to have a whole lot of implications that don't have anything to do with the illness care system we have. Access to medical care comes way down on the list of determinants of health. If we're looking at a bigger picture, we have to take into consideration the whole community.

Ms Churley: And ultimately it will cost more and we'll pay more down the road too.

Ms Brown: We certainly will be paying a much higher price.

The Chair: Thank you very much. For the government, Mr Christie.

Mr Steve Gilchrist (Scarborough East): Close enough. Thank you for making your presentations. Given

that I'm quoted in your presentation here and that you've cited the scriptures—just as sort of a preamble, this is from Paul's second letter to the Thessalonians:

"In the name of the Lord Jesus Christ, we urge you, brothers, to keep away from any of the brothers who refuses to work or to life according to tradition we passed on to you.

"You know how you're supposed to imitate us: Now we were not idle when we were with you, nor did we ever have our meals at anyone's table without paying for them; no, we worked night and day, slaving and straining, so as not to be a burden on any of you.

"We gave you a rule when we were with you: not to let anyone have any food if he refused to do any work. Now we hear that there are some of you who are living in idleness, doing no work themselves but interfering with everyone else's. In the Lord Jesus Christ, we order and call upon people of this kind to go on quietly working and earning the food that they eat."

It goes on to talk about the greater dignity, the greater self-respect, the greater self-assurance that comes from having a job.

When people come and make presentation on the course we're trying to set for this province, and the one that was recognized by a majority of the voters on June 8 has being the one they wanted to see their government articulate, I have a hard time reconciling that the statistics you quote in your document all arose under the last two governments, under a supposedly socially motivated regime.

You talk about food banks, none of which existed in 1985. You talk about 1.3 million people on welfare and you talk about ladies and children being written off, an entire generation, yet we gloss over the fact there are now more women on welfare than there were total welfare recipients in 1985. I can't for the life of me understand how anyone could accept the morality of the last 10 years, the fact that one out of every eight Ontarians today is living on government assistance, unable to find jobs, unable to fend for themselves.

Surely you would agree that a sharing of resources we have, which was the concept of tithing, not speculating about future income, which is deficit financing, is the way that a true Christian should comport themselves. Surely you agree that the morality of bankrupting future generations to pay for the excesses and the errors of today is totally repugnant and is something that our government must not allow to continue.

Mr McElhinney: It's interesting that you quote from St Paul. St Paul had a standard of work. If ever there was a workaholic in the world, none of us could measure up to the standards of St Paul. St Paul is hardly the objective one here. Frankly, sir, I find that a regrettable passage to quote from because it can so easily perpetuate the stereotypes of people on welfare. To quote a verse that talks about "idle"—the fact is that the vast majority of people on welfare do not want to be on welfare.

Mr Gilchrist: I agree.

Mr McElhinney: They would really do anything they could to get off it and would love to have the sort of

job that would get them out of that dependency. But we are faced with a situation—believe me, I'm working in a low-income community that was once one of the major industrial areas of the city. There are not the jobs there. We've been beating the bushes for two years trying to come up with jobs and work with people. We're doing all we can to do that, but it's a tough time now.

To make the assumption that somehow getting that sort of job or being able to find that job is going to be the sort of thing that makes it work for people—we need the safety net to provide the basics for people to be able to move off that dependency. The facts, if you look at them, are if you give them that basic security, people will do what they can to move off that dependency, with encouragement and help. But you've got to provide the basic infrastructure, especially in low-income communities so we'll be able to continue to work at that.

Mr Gilchrist: I certainly agree with you that most of the people out there genuinely want to break out of the cycle of dependency. However, when the system made it more lucrative to not find a job at the lower end of the work scale, clearly that became a disincentive. The fact that the changes we've made so far make a clear distinction between those who can't work and those who won't work—family benefits weren't touched, the disabled and the seniors were not touched, only those that were ablebodied.

The fact is that one of every seven people on that supposedly insoluble problem we had just three and a half months ago, one out of every seven able-bodied people, is now not on the welfare rolls. I challenge your submission that there are no jobs out there, because one seventh of the people have already been stimulated to do that.

Clearly, there is a lot of work remaining ahead of us, but that's what this bill speaks to: clearing the path and allowing the government the opportunity to create jobs by getting other levels of government and bureaucracy out of the way when they aren't being representative of the people.

The Chair: Thank you, Mr Gilchrist. Mrs Caplan.

Ms Churley: Good luck, Elinor, after that.

Mrs Caplan: As Mr Gilchrist was speaking, I was just appalled at the perpetuation of the myth about people on general welfare assistance. I had a call today from a man who has been looking desperately for work and finally got a part-time job, and now his wife and three children are subject to a clawback. He says he can barely feed his children on the amount he is receiving. This is not going to be a merry Christmas for them. He's been looking for work for 15 months, desperately looking for work. He's not on family benefits; he's on general welfare assistance. I can tell you the calls to my constituency office from people on general welfare assistance who beg me to help them find a job. To say that your cuts are not hurting people who want to work is simply not true. I'm not going to get into that.

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What I wanted to say is that this is an excellent presentation. As a former Health minister, I regularly said in my speeches that all health policy should be tested against three objectives: (1) whether the quality of care they would receive in the health system would improve, (2) the quality of life as a result of their contact, and (3) the dignity of the individual. If we test those in this legislation, it is deficient in at least two of the three, and in some areas three out of three.

I feel there were two very important areas missing from your presentation, and I'd ask you to comment on them. I believe that Bill 26 creates a sense of powerlessness, and when you create powerlessness you also affect dignity. That powerlessness is because this bill removes due process, the opportunity for consultation, the right of hearings and appeals and access to the courts.

Further, I think the dignity of the individual is threatened with the potential disclosure of private information. Just the fear of that is not only a threat to personal dignity, I think it also threatens the quality of their life and of the quality of the care they will be receiving if they are fearful of disclosure of that information.

I'd ask you to comment on those aspects of this legislation. I believe there are some parts of this bill that are worthy and deserving of support; I'm not going to say it's all bad. But the cumulative effect of it all, unless it is parcelled out into pieces that can be scrutinized individually, suggests that either the whole bill should be withdrawn or split and separated. I'd ask you to comment on that.

Ms Brown: I would agree that there is a lot of powerlessness created by this bill, and it extends to the people who are working in the health care system: the physicians, the health care workers, the nurses, the nursing assistants and everyone who works in the health care system. This doesn't have to be so. There has been restructuring in this province, in Windsor-Essex, which was done through consultation with all the people involved. There was, to use some of the jargon, downsizing and rationalization, and a model came out of that exercise. I fail to see why the Minister of Health needs to grab all this power to effect this kind of thing when it can be done with consultation of all the people involved.

Certainly, I would support certain parts. I can see that there's a need, say, for some support of the district health council's report for Metropolitan Toronto. We don't have a system of hospitals in this community; we have a whole lot of fiefdoms. But this still needs a lot of consultation with the people involved. The six months allowed by the district health council is not nearly enough time. It took four years in Windsor-Essex to accomplish all this. I fail to see why there's such haste to accomplish everything all at once in this instance.

Mrs Caplan: The suggestion that's been made is that the bill be split. I hear from you that you would support that approach that would allow for the individual parts of this bill that are related to each other, by policy, actually, to be dealt with. Would that give you some comfort? Do you think that's the best approach for this government to consider, splitting this bill and allowing it the scrutiny and public consultation that would answer your three very important questions?

Mr McElhinney: Yes. What we've said is that within the context of the experience we've had, of no consulta-

tion but having drastic measures come down that the community and individuals have had to react to and scramble to survive in the face of, especially in our low-income community, we simply need a process of consultation. Yes, you're right, people are feeling powerless and attempting to come together to gain support from one another. We had a town hall meeting in our area and it was a great thing because it did bring people together. People were able to meet together and come out of their isolation.

The Chair: Thank you, folks, for being part of our process. We appreciate your attendance here this evening.

YORK REGION COALITION FOR SOCIAL JUSTICE

The Chair: Our next group is the York Region Coalition for Social Justice, represented by Sharon Matthews, the co-chair; Patti Bell, a member of the coalition; and a little political plug here for Larry O'Connor, a former parliamentary assistant to the Minister of Health. Welcome to our committee process. We appreciate your attendance. You have a half-hour to use as you see fit. In the time you allow for questions, we'll start with the government and it will be evenly divided. The floor is yours.

Ms Sharon Matthews: On behalf of the organizations and individuals who are members of the York Region Coalition for Social Justice, we're pleased to participate in these hearings on Bill 26. Our coalition is, however, strongly opposed to much of the content in this omnibus bill. We believe this bill moves too far, too fast and has had no significant public input.

Our presentation deals with the health section of the bill, specifically schedules F and G. In our opinion, these portions of Bill 26 would give the Minister of Health the power to make decisions that would change completely the delivery of health care services in Ontario and the operation of our public hospitals, without public input and without community involvement.

These amendments to the Public Hospitals Act give the Minister of Health almost unlimited powers regarding the operation, funding, closure and amalgamation of public hospitals. Instead of the power to fund and to remove funding from hospitals being determined by regulations under the act, these amendments allow the Minister of Health to decide all hospital funding matters at his absolute discretion. The minister also has, under these amendments, given himself the power to close hospitals, order amalgamation and specify the services to be delivered by a hospital if he considers it, and I quote, in the "public interest."

We believe hospital restructuring is necessary, but it should not be done without a community role. In this omnibus bill the government gives no guarantee of public participation in the major reform of our health care services. One would have to ask what alternatives this government would be prepared to consider if public opinion continues to be so opposed to health cuts as it is now.

In York region, we have always been shortchanged in hospital funding. Our region is growing rapidly and the Metro hospital restructuring project was originally initiated to allow funding to move from the overbedded

city core to the hospitals in areas like York region that are facing high growth and need more funding to cope with the huge increases in their population. With the funding cuts already made to all of our hospitals by this government, we are facing the loss of services in York region hospitals, and this bill does nothing to address the funding inequities already present in our community.

We believe that the expanded role the district health councils have been given in health care planning over the last few years has given communities the opportunity to be involved in the decisions that affect the delivery of health care services in their areas.

The hospital restructuring plans developed by DHCs in Windsor, Sudbury and Metro Toronto should be given an opportunity to succeed. Let the process already under way have a chance to work before the Minister of Health gives himself such extreme and unlimited power as he does in this bill and dictates a solution from the top down. Community groups want the solutions to come from the bottom up. They want to be part of the process, as they always have been under NDP, Liberal and even under more progressive Conservative governments in the past. There is no justification to shut the public out.

In Ontario, we've been proud to have a single-payer system of health care. We don't want to move in the direction of a two-tiered American health care system that this bill seems to be taking us.

In our communities, we had a public role to play in this system on boards of hospitals and community health centres, on our district health councils, on long-term care committees and working with volunteer agencies and boards.

Our coalition understands the need for change in the health care system, but this minister's way won't work. Change must be developed with full public input and participation. Clearly this government does not want to give communities the opportunity to participate in the planning process. Even these brief hearings were only allowed after a battle.

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The association of district health councils should have been consulted and involved in any changes involving hospital restructuring. They've been working on these issues for years and we believe they have much to offer. Without paying attention to public opinion, the current government shows clearly its disregard and disdain for any other existing form of community planning and control already in place and operating well.

We want local communities to have the power over their own health care. We believe Bill 26 will change completely the relationship between public hospitals and government by taking away the independence of our public hospitals and the communities they serve and giving total control to the Minister of Health. In the name of the public interest, but with absolutely no public process, the minister has complete power over our hospitals and our physicians.

We have great concern that this bill will allow forprofit US health care providers to operate independent health care facilities in Ontario and be given preferential treatment by this government. There is no other logical reason for removing the limitations on foreign for-profit operators. And once again, the health care providers in our communities are not being consulted or involved in this very major decision.

Ms Patti Bell: The human cost to the user fees proposed in this bill is not tolerable. Our coalition believes user fees are a tax on the sick and are one more financial attack on the vulnerable in our society by this government.

We believe that the benefits of our health care system should be distributed on the basis of need alone and the costs of the system should be distributed on the basis of ability to pay alone. User fees reverse this. And once user fees are in place, there will inevitably be increases coming along with each new budget.

User fees restrict accessibility and create a two-tiered health care system: one for the rich and one for the poor. And user fees do not save money in the long term.

The poorest in our society have more health problems than the rich. A single mom who is struggling to feed her children on social assistance, already cut by 21%, may often have to buy four, five or more prescriptions each month. Choosing to feed her children over paying the user fee, which she doesn't have, may result in a stay in an acute care hospital bed, costing the system much more than we take in with user fees. This government is out of touch with the reality of poverty if they think a \$2 user fee can be paid by social assistance recipients. Seniors will be paying the first \$100 each year plus over \$8 per prescription on their very limited incomes.

We don't need user fees that hit the most vulnerable in our community. We believe there is already enough money in our health care system. We just need to spend it smarter.

We should be paying for only the most effective drugs, and this decision should not be made by the Minister of Health. The government should establish an arm's-length committee of experts to make recommendations to the government on the appropriate drugs to be covered under the Ontario drug benefit plan.

The government should be providing medication awareness programs to the public and to health care professionals to avoid over- or inappropriate medication, especially to seniors.

We believe the deregulation of drug prices will cause prices to soar in Ontario. We are very concerned that Bill 26 allows the Minister of Health to establish clinical criteria to determine what drugs the Ontario drug benefit plan will cover.

This bill also gives the minister wide power to collect, use and disclose the confidential medical information of Ontarians.

The Minister of Health is not a medical doctor and we have grave concerns that Bill 26 takes medical decisions out of the hands of physicians and other health care providers and places them in the unskilled hands of the minister.

The public is becoming aware of the draconian measures introduced in this bill and they're afraid of what these changes will bring to the health care system they care deeply about: the decision to cancel existing agreements with Ontario's doctors instead of negotiating; repealing the process always used to settle dispensing fees with Ontario's pharmacists, and the removal of the term "medically necessary services" from the Health Insurance Act and allowing government to determine what's medically necessary instead of our doctors and nurses.

We are deeply concerned about the impact the cuts made by this government have had on our communities because we cannot ignore the broader determinants of health. To maintain a healthy population, all residents of Ontario need jobs, food, security, adequate housing, quality child care, education, health care and a safe environment in our homes and in our community.

Members of the York Region Coalition for Social Justice are working with the vulnerable every day in our community and the cuts imposed by this government are dangerous to their health. We can't make further cuts to their health care and we can't take the decisions about the health care they need away from their doctor and give it to the Minister of Health.

We would like to take this opportunity to point out that our coalition is not a special interest group. We represent a broad cross-section of our community and our members come from all walks of life. We believe that these health care cuts and user fees will hurt the poorest in our society and are being implemented to give a tax break to those who already have the most.

We understand the difficult work of restructuring our health care system. It must be done and we believe it must be done in the full light of public process. The health care groups in our community want to continue their partnership with government, keeping Ontario's health care system the very best in the world. We ask this government to withdraw the health sections of Bill 26 and have full public consultations to develop changes in a democratic and open fashion.

No mandate has been given to this government to turn Ontario into a dictatorship. A society is measured by the care they give to their vulnerable. Let's start caring again in Ontario. Thank you.

The Chair: Thank you very much. You've allowed lots of time for questions, beginning with the government, about five, six minutes.

Mrs Ecker: Thank you very much for coming this evening and providing your views; very helpful. Thank you very much for coming and welcome to a former member back in the halls of the building. It's good to see you again.

Ms Churley: Oh, but he's non-partisan tonight.

Mrs Ecker: Oh, I'm sure. Anyway, one of the comments that you made in your presentation I thought was very excellent. You said that you believe that there's enough money in the system; it's just a question of how to spend it smarter. We would support that very strongly, and that's what the restructuring exercise is all about which we're trying to do in the system.

The other point that I think you made in your presentation, which was very good, was about the importance of local planning, the importance of the district health councils in local planning for restructuring the health care system. I think it's important to note that nothing in Bill 26 changes the vital planning role of the district health councils. That will still be there.

The minister has been very, very clear about that, that he wants the district health councils, with the public consultation and the community support that they have, to continue to do that. If you have any suggestions about how we can clarify that in the legislation, we'd certainly be very interested to hear that because we don't wish that to be misunderstood.

The other point I think is, we've been asked by some communities to actually clear the roadblocks that they're finding. You've mentioned Windsor, Sudbury, Toronto. In Sudbury specifically, they've been mired in controversy. They would like to have somebody, the ministry, come in with some lever, as the Association of District Health Councils of Ontario said earlier today, to solve some of those roadblocks to restructuring. The district health council association earlier today again made some excellent recommendations for how that commission can work more effectively.

I just wondered if you had any further comments. If we don't use some sort of commission of that kind to make this restructuring happen based on the district health council planning, how else are we going to implement such a restructuring which we all agree needs to be done?

Ms Matthews: I'm going to ask Larry to answer this. Mr Larry O'Connor: Thank you. I think that it's important, first of all, to recognize the work that has been happening within different communities that have seen the restructuring take place.

As we've mentioned within our brief, York region hasn't seen its fair share of funding and it's a highgrowth area. The hospitals working within that area have been very patient, recognizing the high growth and felt—and have been reassured through the government—that in time you're going to see some of that funding shift because we've got far more hospital rooms and hospital beds than we need here in Toronto.

The problem we have here is, the legislation looks like it's going to pre-empt everything that's happening here in Toronto. The community is working darned hard right now. I think that they can get to where they have to be themselves without the minister saying: "I can do it better than you can. I know better than you do," or "I'm sorry, but we're going to take the management of that hospital over. We're going to put a supervisor in there." I think that before you even dangle a carrot out there, you've got a whole armful of sticks. Something isn't quite right here.

Just the health sections alone is enough for probably half a dozen pieces of legislation, at least what I've seen in my five years as a member of the Legislature. I think we have to have separate hearings just on the health portions alone. I think we have to give the stakeholders ample time to prepare. You haven't given the public near enough time to prepare. I'll tell you, they're very nervous out there.

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Mrs Ecker: Yes, but the district health councils are doing the consultation on how the restructuring should happen. So we need to spend many months to do that.

Mr O'Connor: Except that the minister's got the stick.

Mrs Ecker: No, the minister is not going to short-circuit that process and that's why I think it's important for us to be very clear about it.

Mr O'Connor: Will he remove it from the bill?

Mrs Ecker: He's talked about restructuring, for one thing. As I said to you, if you have amendments or suggestions for how we can make that clear in the legislation, we'd be very pleased to hear them, because that is clearly the intent.

We'll move on to a second question, then.

Mr O'Connor: Removal from the bill would be the suggestion we'd make.

Mrs Ecker: We've had district health councils ask us, including the Association of District Health Councils of Ontario, which said to us it needs a lever to make those changes. So we are responding to what we've been asked.

You make another comment about fears about a twotier American health system being allowed to come in under the Independent Health Facilities Act legislation. If that's indeed what was going to happen, I would very much share your concern, because I don't believe we want the American-style health system here in Ontario either. But I guess what I was curious about is why you would think that would happen, given the fact that the Independent Health Facilities Act legislation would regulate—regardless of what the ownership was of an independent health facility, it would be the same regulation. That regulation is dedicated to quality assurance, and that's what it's all about: to have good outcome measurement done with a multidisciplinary team within the system to set clinical parameters to measure quality. That's the regulation. So I don't know how that would create some sort of two-tier concept. No matter what the ownership is, they would have to meet quality standards.

Mr O'Connor: If we take a look within the legislation—and as presenters all we can do is take a look within the legislation. Of course, looking within this legislation, not everybody is fortunate enough as maybe a former member to have a set of the old statutes kicking around. When you go in there and you open it up, and anything that refers to Canada and Canadian content and not-for-profit is being pulled out by this bill, what else are you led to believe? We're trying to open up the doors so that we have far more for-profit-making enterprises being involved in it. Why would they take out the Canadian content?

Mrs Ecker: Why would something that's properly— The Chair: Thank you very much, Mrs Ecker. That uses up all your time.

Mrs Caplan: I'm going to put a perspective on the table and suggest to Mrs Ecker that you have every reason to be concerned, because while she is interpreting the bill, I would tell her that there is nothing in the bill

that does what she says it's going to do. In fact, there's nothing in the bill that preserves any process or any role for the district health council. There's nothing in the bill that defines any process at all for the community consultation. In fact, what the bill does is give unprecedented, broad, sweeping, absolute powers to the minister, without any process, and it allows the minister to delegate those authorities to an individual or organization or association without any accountability.

The scary thing is that what this minister is saying is, "They're going to make all the decisions, not me." There's no mandate or criteria or anything upon which to judge either the minister's judgement or this restructuring commission, other than the term "public interest," and even that is not clearly defined. So it would be nice, Mrs Ecker, if what you said was reflected in the bill, but it's missing.

Secondly, on the issue of Canadian, not-for-profit preference, the existing legislation says that when all things are equal, when there are two proposals for the best quality at the best price, if one's Canadian and the other is not Canadian, you give preference to the Canadian. It doesn't say you give preference if it's more expensive. It says sure, Canadians can compete. But not only does this remove the preference for non-profit Canadian when you have a level playing field, this bill removes all process. There's no requirement for a tender. There's no requirement for a request for a proposal. It gives the Minister of Health absolute and unfettered power to decide who is going to deliver that service. Nothing in this bill gives any comfort to the community.

There's such broad regulatory-power-making authority in this bill that in fact the community is cut out of it entirely, the DHC potentially. If this minister says he's not going to do it, a future minister could. Ministers of Health don't last long around this place. Once a minister has these powers, that's it. A sunset review doesn't mean those powers are going to disappear.

Now, my remarks, Mr Chair, I know are more directed at Mrs Ecker, because I don't believe that what you said to this deputation, Janet, reflects what's in the bill. If that's your intention, then withdraw this bill and bring in a bill that reflects what you have just said. That's what they're asking you and that's what we're asking you and that's what we've been hearing.

There has not been consultation on this. Your intention is not clear. The powers are so broad that the minister could virtually do just about anything he decided he wanted to do without talking to anybody. If it's not his intention to do that—and I suspect or hope it would not be—put those procedures back in the bill. Why does the bill wipe out all avenues of hearing and appeal and access to the courts for dispute resolution? Whether it has to do with independent health facilities, whether it has to do with doctors, whether it has to do with other providers or hospitals, all process is removed from this bill.

I would say to the deputation that your presentation is well-founded, it's very articulate and your fears are not unfounded. This bill is unclear about what the actual intent is, and I hope that the government will listen to you. I hope that Mrs Ecker, who is well-intentioned, will

take the message back to her minister that if they want to do what she says they're going to do, put it into the law so people will have comfort that that is what is going to happen. Isn't that what you're asking?

Ms Bell: I'm glad you pointed that out; it's exactly what we're asking. We want public consultation and we want time to make appropriate responses and submissions. Also, because the conversation, Mrs Caplan, was quite well-worded in your response, and Mrs Ecker had said, why do we think that there will be a two-tiered system, we think that because user fees indicate a two-tiered system to us. I work with abused women and their children, and they cannot afford \$2 user fees. It may seem like spare change in your pockets, but that is not what it is to these women and children. These people will not get the medications that they need. That's a two-tiered system; that's user fees to us.

Ms Churley: Thank you for your presentation. It's nice to see you again, Larry. I think it was a very good presentation, and what's interesting is that it follows the pattern of the presentations that we're hearing. Almost all of them reflect many of the same concerns and come to some of the same conclusions around perhaps splitting the bill, dealing with it in a more comprehensive way.

I cannot let the comments from Mr Gilchrist that were made earlier go by. I want to comment on them and hear what you have to say. I've been in government and I know what it's like to be sitting at a table and have people come in and not agree with your position. It's not very pleasant at times, but I have to say that I found Mr Gilchrist's responses to the church group that came in to be profoundly arrogant and insensitive and totally lacking in any understanding of what's going on out there in our communities. In fact, I would say that some of his views appeared to me as quite sexist. The word "ladies" was used—"more ladies on welfare"—and I appear to be shaken—

Mrs Ecker: Give me a break.

Mr Gilchrist: Oh come on, Marilyn.

Ms Churley: I have the floor. Perhaps some people say I'm too sensitive to these things. I don't bring up my personal life very much, but I was a single mom on mother's allowance once. These days that's something to be ashamed of, the way it's talked about by members of this government. I fought my way out of that and I'm proud of how I've managed to live my life, and I'm extremely offended by sexist comments about "more ladies on welfare." I would say to this government that if they really do want to give the hand up that they talked about in the election campaign, they wouldn't be talking about dismantling day care, cutting subsidies—

Mrs Ecker: We're not.

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Ms Churley: —which they've already done—Jobs Ontario—cutting the subsidies, cutting training programs, some of which this government brought in—nothing to replace them. I know women who have literally already had to drop out of training programs or school because they've had to take their kids out of child care because of the 80-20 cuts. Municipalities are not picking up the 20%

cut; the women cannot pick it up. They're dropping out of school; they're going to stay on welfare.

Mr Gilchrist says that the disabled haven't been touched. Well, it's yet again another reflection of this government—not, I'm sure, deliberately misleading people, but they must be misunderstanding what is in this bill and what's happened in terms of other cuts that they have made before this bill. For instance, the disabled: They are being redefined. There are some people who are disabled—we read about one in the paper today; a column by Thomas Walkom—who committed suicide. There is some indication that her being cut off welfare has something to do with that. There are people who have lost transportation because of that, who are having higher transportation costs. They are going to pay now for drugs.

I mean, the reality is, I don't know if you guys are really seeing what's going on. They had church people in here who are working on the front lines and are seeing the real human suffering, and what does Mr Gilchrist do but sit and lecture them about what's really going on in our society and dismissing—

Mr Clement: As opposed to what you're doing right now, Marilyn.

The Chair: Ms Churley has the floor. When you were speaking, she didn't say anything. So we owe her the same respect.

Ms Churley: I was profoundly disturbed by those comments. I'm certainly asking this government to pay more attention to what the cuts are doing to real people out there and do what they said they were going to do, which I think is partly why people voted for them. They offered a hand up, and I know welfare recipients who thought they were going to be given a job by this government. In fact, they've lost: They're losing training, they're losing child care, they're losing money. They feel profoundly betrayed.

If I have any more time left, I would ask—I don't. So they cannot comment on my comments.

Mr O'Connor: Mr Chair?

The Chair: Just 30 seconds.

Mr O'Connor: Thank you very kindly. I have something that I'd like to table, given that we don't have time. It was a letter to the editor that showed up in a local newspaper that described the user fees placed on the Ontario drug benefit plan as euthanasia in disguise. It's kind of scary, but I hope it opens an eye or two.

On the way down here, one of my colleagues here had mentioned that in the past at their women's shelter what was a commonplace was people used to bring in gift baskets with a few presents and toys for the children. Not this year. This year, the mothers who are going to the women's shelter are asking for food, because the food banks only give out food once a month. These women are asking for food to feed their children.

The Chair: Thank you. We appreciate your involvement in our process and your presentation here tonight.

Our last presenter for the evening is Dr Michael Weinstock. Is he here? If he's not here yet, Mr Clement, do you want to hand out those answers?

Mr Clement: Oh sure, yes.

The Chair: You had one other question.

Mrs Caplan: I appreciate the ministry's response to the questions from yesterday and I want to put that on the record. I know how hard the staff are working to do that, and it is very helpful to have the questions answered expeditiously.

The physiotherapy association, which was here today, I thought raised an interesting point, and that was the lack of clarity about the government's intention of who they intend to bring into the independent health facilities legislation and whether or not it is their intention to bring in all physiotherapy services that are provided in both insured and uninsured services and if it is their intention to in fact bring in all services that would be considered health care and put them into independent health facilities under this legislation, whether they are provided in insured and uninsured.

We know the legislation permits that, but I think that people have a right to know what the ministry's and minister's intent is. So I'd ask if they would give a statement of intent of what they expect to do. Because when we spoke to the physiotherapists they said they did not know, they hadn't been consulted and they were anticipating what might be. I think that would be helpful, not only for them, but for others to know what the government's intention is. That was one.

The Chair: We can get back with an answer for that tomorrow.

MICHAEL WEINSTOCK

The Chair: Dr Weinstock, we appreciate your being here, sir. Have a seat. We're just a tad ahead tonight, which is unusual, but welcome. You have 30 minutes of our time. Any question time you allow at the end will be divided up evenly, starting with the Liberals.

Dr Michael Weinstock: Mr Chairman, I've prepared a statement. If I can read it, it won't take very long, and then I'm finished.

I appreciate this opportunity to address this committee. I'm a family physician. I've been in practice for 22 years. My practice profile is that of the average family practitioner—paediatrics through geriatrics.

I work long hours, about 10 to 12 hours a day, as do most family physicians. I do not complain about the hard work as I enjoy what I'm doing. I enjoy the respect of my patients. Many families have continued in my practice for the full 22 years, in spite of moving away from my office vicinity.

But I come before you as a physician who is demoralized. I come before you as a husband and father who is frightened about his future. This anxiety increases daily, especially after I read the front page of the Globe and Mail today.

I come before you to explain how Bill 26 will affect me. I am concerned about the loss of my rights for fair negotiations with this government.

I'm concerned that this bill will give the Ministry of Health and the general manager of OHIP the right to second-guess my clinical judgement. This bill will remove the rights of the OMA to negotiate on my behalf. I feel helpless about my future as my basic rights are being dismantled.

This bill will allow the Minister of Health to unilaterally set my fees, demand reimbursements and even force me to provide services for free.

This bill will allow Ontario to be the only province that will refuse to negotiate with the provincial medical association. Even in Alberta, where Ralph Klein has set the standards for fiscal restraint, the government negotiates with the Alberta Medical Association.

This bill will allow inspectors to come to my office, to take away any charts they wish and to determine at will that a service was medically unnecessary. I realize that the intent is to prevent fraud, but I'm worried about the potential misuse of this power. Who will monitor the monitors?

Every physician can recall cases where the history and examination of the patient appeared to be absolutely normal, only to have the patient deteriorate over the next few hours or days. Will the inspector look at the visits and deem those visits medically unnecessary? Will the inspector discuss each case with me?

I fear that this bill will allow arbitrary judgements against a physician. I realize that I will be allowed to appeal, but the appeals will cost an enormous amount of money. I understand that there will be a fee. There'll also be a bill of about \$20,000 a day. It will require me to hire a lawyer and to leave my office. This, in effect, leaves me without any possibility of appeal; I cannot afford that.

I feel that this bill will force me to be torn between my responsibilities as a physician and my concern that an inspector who may not be a doctor may deem that service to be medically unnecessary.

I ask each of you to think about a visit that you or your family made to a doctor's office when you were extremely anxious about a concern that you had—a swelling, some type of pain. How did you feel when the doctor was able to allay your fears, that the problem was nothing serious?

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My question is this: Is there a possibility that service could be deemed medically unnecessary? I fear that the answer is yes. I worry that this bill will paralyse physicians from practising reasonable medicine for fear of further repercussions. This bill is intrusive and offers the physician no protection.

I have watched the demands on our health system increase by AIDS, by increased violence in our streets, by patients living longer with incredible surgical and medical advances. I have seen patients becoming more sophisticated, having access to the Internet, having lengthy printouts from pharmacies about their medications. These patients are aware of the medical advances and investigations and are more demanding.

I serve this system honestly and fairly. I do not knowingly increase the fiscal pressures on the system. I do not understand why I and my colleagues have been chosen for the loss of our rights and for the arbitrary punishments in this bill.

I feel that I have been drafted permanently.

I finish with a quotation from the article written by Terence Corcoran in the Globe and Mail on December 5 under the heading of "Ominous Bill."

"Bill 26 is a draconian power grab by the Health minister, who will be handed arbitrary powers to open and close health facilities and hospitals at will, regulate health services at will and—most ominous of all—dictate where and when doctors can serve their patients. While it may be politically acceptable to boss doctors around, the conscription proposed by Bill 26 is the most extreme coercion imposed on any group of employees since ablebodied men were drafted into the military."

Thank you very much.

The Chair: Thank you, doctor. You've allowed lots of time for questions. We'll begin with the Liberals who've got about seven minutes.

Mrs Caplan: How did you find out about these hearings?

Dr Weinstock: I was talking to some patients about my concern, and someone who had previous experience working at Queen's Park called me and told me about it.

Mrs Caplan: My concern is that not enough individuals know that they can come forward and make representations. You're one of the few who have come forward in the last couple of days. We have a huge list of organizations and individuals that have been turned away, and I'm really pleased that you're able to come and talk as an individual who is concerned about the massive powers in this legislation.

The other question I have for you is, what does it do to morale when you see this kind of—I don't want to use the rhetoric of power grab, but I can't find anything else to describe it, when the government and the minister—I'm a former minister so I know of whence I speak and I know the impact that has on providers. How does it make you feel?

Dr Weinstock: As I mentioned in my presentation, I really feel thoroughly demoralized; and I can tell you that to a person, every physician I have spoken to, friends or colleagues—and not calling up and saying, "What do you think?" but just in referrals and such things—it always comes up in conversation. Everyone is feeling absolutely demoralized, anxious for their future.

Mrs Caplan: I know that many doctors voted for the Conservative member in their area. I'm wondering, and I know most of them read this and I've had a number of discussions with people about how they were going to proceed and what they were going to do and the promise to protect health care. I think the thing that struck me, without the sort of no new user fees and protecting the health budget and all of that was the—and I referred to this once before—"We're ready to listen and to learn and to work with anyone who wants to join us and who could show us more creative and more effective ways to end waste and duplication," and then at the very bottom line of the document is, "...but how we get there will be discussed in partnership with all Ontarians."

My question is, do you feel like you're a partner? Do you feel that they're willing to listen to you and to learn and to work with you and other providers? Is this what you expected when you read this document?

Dr Weinstock: I spoke to my MPP before the election, and his quotation was: "We hear you. We hear you loud and clear." I would just be repeating myself. I do not feel a partner in this. I feel that I've been drafted, as I mentioned. I really have no say in my future here. That's my feeling.

Mrs Caplan: That says it all. No further questions.

Ms Churley: I too am pleased to see an individual come down and speak to us. I think that what you have indicated by your comments is something we continue to hear over and over again: that there is real fear about this bill, whether you are a doctor or somehow involved in the health care field. I'm just talking about the health care sphere here. I have been also, at times, attending the other hearing that's going on just down the hall, and we're hearing the same thing from people. What we're hearing consistently is the lack of partnership, the lack of consultation and the lack of time to understand the implications of the total bill.

It's clear from what you said that you have some understanding of a few pieces which you know are going to have a direct impact on your life and your practice. Beyond the few areas of interest to you, do you have any other idea of what the bill entails overall?

Dr Weinstock: The one area that some of my patients have raised with me is the area of privacy, the access to their medical records. They've asked me, "You mean someone can just walk in and take my records, and this can become public knowledge?" I say, "From my understanding, yes."

Ms Churley: Well, we say yes too, but the government members say no. But our understanding, our legal reading of the bill is yes, they can do that.

Dr Weinstock: I'm mainly focused, of course, on the effect it's going to have on the medical system. Even this was complicated for me to understand, and I had to depend on the OMA and some other sources, but the other areas I'm afraid I really have not had—I understand that there are many other areas, municipalities etc, but I'm a busy family doctor.

Ms Churley: No, I understand that. Certainly not everybody can pay attention to every aspect of the bill, which is what's been good, that we've had different—I'll dare to use the word—special interest groups come in and clarify and give their opinion on some of the items.

Our government, when we were in government, the NDP—it's pretty obvious that our relationship with the OMA and doctors was not always an easy one. There are certain problems that we tried to deal with and I would say that this government does have to deal with, I think we all have to agree. In some areas, we were successful; in other areas, we weren't. I certainly believe it's important that this government proceed and try to deal with some of these problems.

I'd like to ask your opinion, for instance, on whether or not you think it's true, as a doctor, that there are some

problems that need to be worked out with government in partnership. Let me give you an example: for instance, this government arbitrarily telling new doctors where they can and can't practise. We know there's a problem in some underserviced areas. I don't agree with that kind of draconian way of dealing with it. But would you, for instance, have any suggestions to the government? Because we do have to solve that problem. I don't mean to put you on the spot. If you'd like, just refer to the partnership in general and what you think is needed here.

Dr Weinstock: I think it would be much more comfortable for me to realize that there was some negotiation and discussion about some of the difficult areas. From my understanding in speaking to friends at the OMA, there are people who are ready to work in underserviced areas. There would have to be some agreements about time and salaries or methods of payment etc. But I'm not sure how big a problem it is. I know it is a problem in many areas. But I think your basic premise of having some sort of negotiation would be much more favourable for me to see.

Ms Churley: Do you think that if this bill is passed basically the way it is, more doctors will move to the United States? Do you think there's a real threat here or could it be just rhetoric to try to get the government to back down? Do you have an opinion on that?

2030

Dr Weinstock: My opinion is that it's a real concern and it's not rhetoric any more. When physicians are faced with the inability to have any discussion, to negotiate for themselves, to be told where, when, even provide services for free if necessary, who knows what can happen next. Everybody is just plain scared, and there are people I know who have already made increasing arrangements to move to other areas, particularly the United States. It sort of stopped when the PCs were elected. There was a little bit of—

Ms Churley: There were high hopes there for a while.

Dr Weinstock: —a quiet time. Then as soon as we heard that there was a breakdown in negotiations with the OMA, they walked in and said, "You guys are history" about a month or two ago, it spread like wildfire. Everybody heard about it in about a day or two, and there are people talking, and very, very seriously, about leaving.

Mr Clement: Thank you for taking the time to be here. It has given us a lot to think about. I want to thank you for your very thoughtful presentation.

Do you think we've got a financial and economic crisis in Ontario right now?

Dr Weinstock: Yes.

Mr Clement: You've heard the Finance minister—\$1 million an hour more in expenses than revenue we're taking in. Have you heard that figure?

Dr Weinstock: I've heard that figure.

Mr Clement: Have you heard the figure that right now we pay \$9 billion on interest on the debt, which is more than we spend on hospitals?

Dr Weinstock: I've heard that.

Mr Clement: So, you would agree with me that the status quo is not an option. In fact the status quo doesn't exist. We have a deteriorating status quo, which is causing us more and more problems in terms of jobs, opportunity, health care. Is that fair to say?

Dr Weinstock: I would like to stick to my area as a family physician.

Mr Clement: You're a taxpayer and a voter, aren't you?

Dr Weinstock: Yes, I am. I appreciate that there are problems. I feel that we as physicians have given money back to the system. I feel that 10% of my income is a lot of money and it's left me with very little at the end of the month, the 10% that I've been paying back for the past few months. So, yes, I feel that there is a problem. I feel that we as physicians have kicked and screamed a bit but we understand our responsibilities.

Mr Clement: And that's fair. I mean, you've got to represent your interests but you understand the wider interests as well.

Dr Weinstock: Yes, but there were negotiations and there was give and take. No one likes to have to have a clawback, I appreciate that, but my concern is that we won't have a say. It could be 10%, 15%, 20%, 25%, and then, to be very honest, I'm finished, I'm history. I can't handle any more than 10%, 12% to my practice.

Mr Clement: I perfectly understand that.

Dr Weinstock: Yes, I'm sure you do.

Mr Clement: Let me just say for your edification that—I think you've heard this before during the campaign—we are listening to you, we hear you. Certainly, if you do have amendments to this legislation that you feel will alleviate some of the concerns but will also allow the government to restructure the health care system for the benefit of all Ontarians, either by written submission—I'm not trying to put you on the spot now because you just recently heard about this process, but we would love to hear from you.

That's what this process is all about, quite frankly. I don't think anyone, least of all the Minister of Health, least of all the government members of this committee—we are not committed to the bill as is. We want to see changes. We want to see amendments. So your input on those amendments would be very, very helpful to us to ensure that we have a proper bill that is going to deal with the problems that Ontario faces. I just wanted to say that right up front.

Dr Weinstock: Thank you for mentioning that. It's always good to know.

Mr Clement: Thank you. That's about it for me.

The Chair: Thank you very much, doctor. We appreciate you taking time to come and be part of our process. Your input is valued.

The committee stands adjourned until tomorrow morning at 9 o'clock in the other room. So take your belongings.

The committee adjourned at 2035.





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STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président: Carroll, Jack (Chatham-Kent PC)

*Carroll, Jack (Chatham-Kent PC)

Danford, Harry (Hastings-Peterborough PC)

Kells, Morley (Etobicoke-Lakeshore PC)

Marchese, Rosario (Fort York ND)

Sergio, Mario (Yorkview L)

Stewart, R. Gary (Peterborough PC)

Substitutions present / Membres remplaçants présents:

Baird, John R. (Nepean PC) for Mr Danford
Caplan, Elinore (Oriole L) for Mr Sergio
Churley, Marilyn (Riverdale ND) for Mr Marchese
Clement, Tony (Brampton South / -Sud PC) for Mr Kells
Ecker, Janet (Durham West / -Ouest PC) for Mr Stewart
Gilchrist, Steve (Scarborough East / -Est PC) for Mr Danford
Johns, Helen (Huron PC) for Mr Danford

Johns, Helen (Huron 10) for wir Danford

Lankin, Frances (Beaches-Woodbine ND) for Mr Marchese

Also taking part / Autre participants et participantes:

Castrilli, Annamarie (Downsview L)

Curling, Alvin (Scarborough North / -Nord L)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Campbell, Elaine, research officer, Legislative Research Service Drummond, Alison, research officer, Legislative Research Service

^{*}In attendance / présents

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Wednesday 20 December 1995

Journal des débats (Hansard)

Mercredi 20 décembre 1995

Standing committee on general government

Savings and Restructuring Act, 1995

Health issues

Comité permanent des affaires gouvernementales

Loi de 1995 sur les économies et la restructuration

Questions concernant la santé

Chair: Jack Carroll Clerk: Tonia Grannum Président : Jack Carroll Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 20 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Mercredi 20 décembre 1995

The committee met at 0900 in room 151.

SAVINGS AND RESTRUCTURING ACT, 1995 LOI DE 1995 SUR LES ÉCONOMIES ET LA RESTRUCTURATION

Consideration of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda / Loi visant à réaliser des économies budgétaires et à favoriser la prospérité économique par la restructuration, la rationalisation et l'efficience du secteur public et visant à mettre en oeuvre d'autres aspects du programme économique du gouvernement.

The Chair (Mr Jack Carroll): Good morning. Welcome to our committee. As the first order of business, Mrs Caplan has a motion she'd like to introduce.

Mrs Elinor Caplan (Oriole): Thank you very much, Mr Chairman. This is a motion to extend public hearings on Bill 26.

I move that given the great numbers of groups and individuals who have expressed a desire to appear before the legislative committee to address their concerns relating to Bill 26, and given that all those who have or will still express a desire to appear before the committee cannot be accommodated over the time allocated to the committee to do its business;

That the committee request the House leaders to agree to extend the public hearings on Bill 26 to allow four weeks of hearings in the month of February; and

That in order to accommodate the government's desire to address their fiscal concerns, the government identify those portions of Bill 26 which must absolutely be dealt with on January 29 and allow the other portions of Bill 26 to continue to be subject to public hearings during the month of February and be dealt with when the Legislature reconvenes.

In light of the fact that we have people waiting to make presentation to the committee, and because I feel that is so important, Mr Chair, I would agree that we debate this at noonhour when the committee would normally adjourn for lunch. I request the cooperation of all members.

The Chair: Thank you very much, Mrs Caplan. Anybody have any problem with waiting?

Mr Steve Gilchrist (Scarborough East): Do you need a motion on the table?

The Chair: We'll debate it at lunchtime.

Mr Gilchrist: But you can't make a motion and then just leave it without tabling it.

Mrs Caplan: I'll make a motion that I'm willing to deal with it at noon, if that's agreeable to the committee.

The Chair: Anybody have any problem with that? Okay. Thank you very much.

MYTEC TECHNOLOGIES INC

The Chair: Our first presenters this morning are from Mytec. Welcome to our committee. You have half an hour to use as you see fit. Any time you allow for questions will be added up evenly, starting with the New Democratic Party. If I could please ask you to identify yourselves so that Hansard can record who's doing the speaking, the floor is yours.

Mr George Tomko: My name is George Tomko and I'm president and CEO of Mytec Technologies.

Mr Mark Inkster: I'm Mark Inkster, director of marketing at Stentor Resource Centre.

Mr Mark Marshall: Mark Marshall, account director, Bell Canada, health care solutions.

Mr Keith Clemons: Keith Clemons, vice-president of marketing with Mytec Technologies.

Mr Tomko: I'm going to be presenting concepts in security of health today and specifically detail some of the proposals that we are making to provide us with a secure health system.

Mytec was started here in Toronto for the purposes of developing an optical computer to protect the privacy of an individual's information. Protection of privacy, in my view, is one of the major issues in the coming decade, primarily because of our increasing reliance on informational databases and on an electronically networked society.

As a result, there are a lot of potential pressures on privacy. For example, for the first time in history lack of security will directly inhibit growth in commerce—more specifically, the areas of electronic commerce, finance and administration—and society just won't let that happen. They are going to take measures to stop fraud and that is part of the privacy problem. Should an individual's privacy be subordinated to the cause of reducing fraud?

Then there are other issues. There is a lot of useful patient data being collected or being generated by our health care system. With the exception of the attending physician, it is rarely looked at and it sits there. If we could share this information among the community of administrators, researchers, clinicians, then we could generate outcomes management, epidemiological and clinical studies, which we believe would definitely benefit all of society. So should an individual's privacy be subordinated to the general common good of sharing health-related information?

These are tough questions and, as a result, the issues have been relegated to policy decisions. What I will demonstrate today is that there is a technology available which precludes the necessity to infringe on an individual's privacy to eliminate fraud and to share health-related information.

What that will do is take part of the issue away from the policy level down to the technological level so that we, as society, don't have to make the decision to sacrifice one freedom at the expense of the other. With this technology in fact, elimination of fraud is a byproduct of protecting an individual's privacy. Let me now share with you the principles of this technology.

The patterns at the end of your fingers contain a wealth of two-dimensional, unique data. One can now use the ridges and grooves in the patterns of your fingers to code any information that you consider to be private and secure. Once that information is coded by your fingers, it is absolutely secure and private because your fingers have to be there to read it or decode it.

That process I've outlined here as enrolment. In this case the optical computer represented by the lens takes the pattern in the finger and codes a number. That number, which we call a bioscrypt, which is a compound of the term "biometrics encryption," can be stored on a card or a central database. It doesn't really matter because it's absolutely secure without your finger. It has no resemblance to a finger. It can't be converted back to a finger. It's just a number that's coded and no copy of the fingerprint is ever stored; what is stored is a coded number.

Now one of the important things is, that number can be a personal identification number. As a result, you don't have to remember your personal identification number, and if you don't have to remember it, it can be longer, which is more secure etc. Secondly, that number can be a pointer that points to a location in a computer database, and we'll talk about that. Thirdly, that number can be an encryption key used in cryptology to encrypt large volumes of data, such as health data. What it means is now you are in absolute control of the privacy of your information.

Now just to give how this actually works, let's say that you want to code the letter R. What the optical computer does is optically take that R and breaks it up into a myriad of pieces, each of these pieces represented by a dot. However, the location of each of these dots over a two-dimensional area is a function of the pattern in the finger, and since every finger is unique, that pattern is unique. Now if you want to code the letter E, you do the same thing and you superimpose it until you form this thing we call the bioscrypt.

Now let's say that you want to read or use your information. One now presents the live finger there to decode it. As we show here, the number or whatever the number is released. Now the important point here is, the operation of successfully decoding your information confirms what or who you claim to be. I'll repeat that. The operation of successfully decoding your information confirms what or who you claim to be, and as the claimant you don't have to divulge your identity. Your claim can in fact be eligibility to receive services ren-

dered by a card. Why is it necessary to give your name, address, social insurance number, just to authenticate eligibility? The point in any transaction is not to identify the user, but to authenticate eligibility.

That is what is so beautiful about currency. It authenticates eligibility for goods and services without divulging identity, and that is the goal that we who value privacy must seek. Wouldn't it be wonderful, for example, if the cards that we carried in our wallets or purses carried a minimal amount of sensitive or private information that could be read? In fact, with this type of technology all the information could be coded by your own God-given encryption keys, and eligibility is authenticated in an anonymous manner.

0910

This is a paradigm shift. We have up to 10 encryption keys at the ends of our fingers to in fact protect our privacy. God made it that way in anticipation of the electronic society. She probably knows that kind of stuff.

This technology is part of a proposal called Secur-Health, which we are proposing together with Bell Canada, Stentor, the Bank of Montreal and the Royal Bank of Canada. Secur-Health is an information delivery network which is built around the principles of privacy, legitimate access, sharing of information.

I won't get into the details because that's another presentation, but what I want to point out is an objective of SecurHealth, any database that allows you to do these kinds of things requires a patient record or a computerized patient record, which will not be centrally located. It'll be distributed among the health care provider community.

But without focusing on any of the details here, the important thing is there is a lot of information that is considered sensitive and private. On the other hand, there is a lot of information that, if we could share in a private way without infringing on privacy, would benefit our society enormously.

The objective is to structure a database such that it is an anonymous database that uses non-identifiable information with specific and tight controls because sometimes you want to access information. Again we focus on privacy; the byproduct is reduction of fraud. The way the system is set up, it reduces fraud, but that's not the goal.

Now let me define what we mean by anonymous database. What you want to be able to do is not to be able to link personal information, such as health care, to the name and address or to the identity of the individual. The link has to be done through some specific and tight controls and what we recommend is that that link be done through the individual's own finger pattern.

Let me describe the outcome. First of all, if I can kindly have your focus here, this is a computer database. It's not necessarily central; it can be a distributed database. But each of these rectangles represents a block of information and those blocks of information can be personal data, such as the name and address of the individual. They can be health data; they could be welfare data. However, the important thing is that when information is placed into this database, it is placed randomly so there is no link between a person's identity and his information.

Secondly, the actual information is encrypted, in the terms of cryptology, so that if someone—for example, if I were to design that database, I would look at it and I could not extract any information. That is the criterion for success.

The other aspect is, the location of the data in this database is encrypted itself. So not only do we encrypt all the data; we encrypt where the data are, such that if we have in another location the location of these data, the keys to find out the location are held by the individual. So in this case, if the patient went into the physician's office, he would present his finger pattern; he would generate a number, as we described before; that number is a pointer which points to this location in a computer database. On his card could reside the keys to unlock the location of his data. That data would then be found, transmitted somehow to his physician, his physician has now the name, address, etc of the individual, and his health information, however the health information is encrypted. Going through a similar process, the physician slides his pattern, he unlocks his key; now his number is an encryption key, and he can decipher these data and read the information.

Although it looks complicated, with computers it's very fast. The beauty of optical technology is that this all occurs in a fraction of a second. That's how fast it is.

So what we have established here are tight and specific controls; it's non-identifiable data. For example, let's say the physician was treating a patient aged 60 with congestive heart failure and was thinking of giving him digoxin, for example. He might want to go into the database and say, "I'd like to know in this area, what have been the outcomes of other physicians giving digoxin?" Because he has the encryption key, he can do a query to the database, and it's just going to search the health information that is not related to personal ID. It can come back and say, "These are the results." So now we can benefit all of society and no one's privacy is being infringed upon.

I hope I have been able to demonstrate to you that there is innovative technology available which can protect the privacy of an individual, allow health data to be shared, with the byproduct of eliminating fraud. This technology is allowing us to do things that we couldn't even imagine a few years ago. You may be interested to know that Mytec was started here in Toronto; it's all-Ontario, all-Canadian; we have been listed on the Toronto Stock Exchange. In the early days, we teamed with the Ontario Laser and Lightwave Research Centre, which is one of Ontario's centres of excellence, to develop this breakthrough technology.

Optical computing, just for your information, uses as its basic unit of processing light waves or photons versus electrons and bits and bytes in digital computing. This technology will spawn a multibillion-dollar market, and our job, I believe, is to make the focus of that market here in Ontario, because we do have breakthrough technology. So I think another goal is that we make Ontario a model for privacy and we bring in a lot of high-tech, high-paying jobs as a result.

The Chair: Thank you very much for your presentation. We've got about four minutes per party left for questions, starting with Ms Lankin.

Ms Frances Lankin (Beaches-Woodbine): Thank you very much for your presentation. It's always important for us to know the developments that are occurring in Ontario industries, and it's particularly gratifying to see developments that come out of teamwork in work that has been done with centres of excellence and the research and development. Over the last few years we had a bit of a focus on health economic developments, and I think that there is a lot of good, in this area and other areas, product development that can be done that has tremendous export potential.

We have, over the last number of years—I'm sure Elinor would have had the similar experience that I didlooked at developing technologies for smart card technology and privacy protection and to allow us to have more access to unidentified but collective data which could be helpful. What I'm interested in—because we're here on Bill 26 hearings—is why you're here, and have you done a thorough analysis of the legislation? I'm projecting that perhaps you think the changes that are in the legislation are necessary as a support base to being able to implement this technology. I think that there are some changes that are required, but that we need a whole health privacy information structure, because there are lots of pieces of information within the ministry and other areas that aren't and wouldn't be directly controlled through this kind of technology.

0920

Basically, have you analysed the legislation; are there changes that are proposed that are necessary at this point to proceed with this kind of technology; is there anything

else that would be required?

Mr Tomko: In terms of the legislation, what I wanted to demonstrate is the ability of technology to allow us to protect the privacy of an individual's information so that we can accomplish such things as sharing of information. There are many tunes that you can play with this technology. Some of the issues in the legislation, which ask for greater powers to share information, I think can be done with specific and tight controls. So I don't think that Ontario citizens have to worry that in fact their privacy is going to be infringed upon.

Ms Lankin: I think that if yours or other competing technologies that are being developed were put in place and were proven to be effective, those kinds of concerns could be addressed. Today, as we look at the passage of this legislation on January 29 that gives powers to non-medical inspectors hired by the Minister of Health and directed by the Minister of Health to go in and seize records and maybe even disclose that information, we're out of time sync here with what you might be able to provide in the future in order to be dealing with that.

Mr Tomko: Obviously, our goal is that anything done like that would be done under specific and tight controls using technology such as that. That's the issue, that if someone is going to look at health records, that there's a definite non-repudiation method to say: "I've looked at it, there's a audit procedure and I had a reason, or if I didn't have a reason, then I can be held accountable."

Ms Lankin: Those are the sorts of concerns that we have as well. I just say that I really do wish you tremendous success with this. It's an exciting development and I think it will be very important for the Ontario economy.

Mr Gilchrist: Mr Tomko, indeed very impressive and I guess doubly so that it's Ontario-based technology. I'm sure without prejudging the future of your firm's endeavours in this province, I think all Ontarians can be very proud of the fact that we have companies and consortiums such as yours that are applying themselves in these high-tech ways.

I think, to follow up on the questions from Ms Lankin, there's no doubt that fraud is one of the issues. Obviously, at the same time, access in a timely way to health information may very well be, in some cases, lifesaving in its potential: the ability to deal with people who are comatose or incapable of recounting their drug contraindications and sort of thing. I think there's fantastic potential in terms of serving a greater good there.

But let me just deal with the fraud issues, because studies undertaken by the previous government showed that the extent of health card fraud was somewhere between \$65 and \$700 million a year.

Ms Lankin: Between \$65 million and-

Mr Gilchrist: Seven hundred million dollars. Fraudulent billings, obviously, impede the government's ability to deliver health care for those who are not being fraudulent. Obviously, every dollar we waste is a dollar we can't spend appropriately. It certainly eats into the incomes of responsible physicians and it reduces their ability to deliver quality services.

In a nutshell, is it safe to say that on the assumption that the privacy commissioner and such other tests as maybe this technology need to be submitted to are satisfied that it truly is a discreet data capture, that there is absolutely no way that the loss of your card compromises your personal database?

Do you believe it is possible to use the health care information for outcomes management and for planning and such good things without compromising an individual's privacy, and to what extent do you think that the government could deal with the issue of health card fraud by going to this sort of technology?

Mr Tomko: Absolutely, to your first question. You can in fact share information without infringing on privacy. The technology is here; we just need the will.

In terms of fraud, to say that one eliminates it completely is probably a little bit of an overstatement, because there are always going to be ways—the human mind is quite ingenious, but it will reduce it to a fraction of what it is now. This technology is extremely secure. One always has to say, there's always a cost to getting around fraud. The cost of getting around this fraud is going to be very expensive and I don't think to access health services is worth the cost.

Mr Gilchrist: Have you had an opportunity to discuss this technology with the OMA or with physicians in general?

Mr Tomko: Yes, through our consortium we are talking with the various health care provider groups and discussing it, with good response.

Mr Gilchrist: So do you anticipate that within the health care delivery system, the pharmacists, the doctors themselves, there would be any antagonism, any resistance to implement this sort of technology?

Mr Tomko: One has to build a consensus. The most difficult thing that we find is explaining the technology, because it's very hard to divorce yourself from the historical stigma of fingerprinting, and this is not fingerprinting at all. I like to use the example that in the past we had poisons such as foxglove, and foxglove, married with good technology, became digoxin. That's the same thing we're doing. Yes, everything has a dark side, but we are in fact taking fingerprinting and marrying it with exciting technology now to protect your privacy. That's the thing that we have to communicate, and we're doing that through our discussions with them.

Ms Annamarie Castrilli (Downsview): Thank you very much for coming today. It's especially gratifying to see the partnership at work between business and centres of excellence. The goal certainly is a laudable one: the protection of privacy and the managing of information in a responsible manner.

I wonder if you could share with us whether this technology has been looked at by the privacy commissioner. Are there any concerns that he might have?

Mr Tomko: I made a presentation to all of the privacy commissioners across Canada at the last summit conference, including David Flaherty. I understand that Tom Wright is going to be here tomorrow, so I'll let him speak if you want to ask him that question, but we've gotten very good, positive feedback. They've been through the system, they have been enrolled, both Anne Cavoukian and Tom Wright, and I try to work very closely with them, because I've been a privacy advocate for many, many years.

Ms Castrilli: You gave us an example of how information might be shared about a patient with the attending physicians, whoever they might be. Could you elaborate on how it would work with respect to sharing information with entities, organizations, with respect to individual patients?

Mr Tomko: If you could elaborate on your question?
Ms Castrilli: In other words, for instance, if one of the objects, which you say is not the goal but it might be an object, is to eliminate fraud, how would you accomplish that? How would you in fact use the information to be able to do that?

Mr Tomko: You would store coded numbers in a database which we constructed—the bioscripts—and when someone enrolled, the optical computer would compare against the bioscripts. If there was a match, then a pointer would be released, as I had discussed, and that pointer would point to an encrypted location of the personal ID. To in fact decipher what that is, you would have to go through an administrator, who would use his finger pattern to unlock the key, the specific and tight controls. So as a result, in no way would information about the individual be divulged.

I have a slide here; if you have the time I can show you the schematic.

Ms Castrilli: I'd be curious in knowing how doctors would—since one of the government's concerns is that the doctors may be in fact billing more than they should, how would this help in any way?

Mr Tomko: If that's the case, it would help because you would have non-reputable information that a patient

did come and he did receive service and you would have non-reputable information that the physician did in fact attend to the patient. It depends on what the problem is. If we know what the problem is, we will come up with a solution. The technology is there.

Ms Castrilli: But a patient could in fact be there more than once and you wouldn't know whether it would be for separate things, would you?

Mr Tomko: If you want to build that into the system,

you can build that into the system.

Ms Castrilli: Have you had any discussions with the government with respect to this? Is this the kind of system that they're envisioning for the future?

Mr Tomko: We started talking about this with the government two and a half years ago, when you were

Minister of Health.

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Ms Castrilli: I was referring to the current govern-

Mr Tomko: Yes, we still are doing missionary work. Ms Castrilli: Are there any cost figures that you have?

Mr Tomko: Obviously the cost is a big issue. What we are proposing with our consortium is that the costs be taken out of savings, to make it a win-win situation. Obviously that's the best of both worlds, and we believe that this technology is so good that there will be definite savings.

Ms Castrilli: Thank you very much. Very impressive. The Chair: Thank you, gentlemen. We appreciate your involvement in our process. Have a good day.

HALTON MEDICAL SOCIETY

The Chair: Our next presenters are from the Halton Medical Society: Garnet Maley, the president, and Dr Walter Koslowski, the past president.

Good morning, gentlemen, and welcome to our committee. You have a half-hour to use as you see fit. Questions will begin with the government party at the end of your presentation. The floor is yours.

Dr Garnet Maley: Thank you, Mr Chair. Initially, I'd like to apologize for two things. First of all, I've been up all night and I may not be quite as coherent as would be ideal.

Secondly, Dr. Koslowski and I would like to respond to a few of the issues that have been raised by Bill 26, and I apologize: For you this may seem awfully redundant, but this is our opportunity for foot soldiers like Dr Koslowski and I to really speak about what our concerns

I would like to divide our presentation into two sections. We're interested mostly in schedule H of Bill 26. We'd like to limit our discussion to our two major concerns. The first is questions about adverse effects on medical services if Bill 26 is able to pass unchanged, and the second is our very real concern, both as physicians and as patients, as to how Bill 26 will impinge upon patient confidentiality.

If I can give you a little travelogue to start, we're the Halton Medical Society. We represent 585 doctors in Halton county, and by and large we feel we offer excellent health care to the people in Halton. For those of you who need to brush up on your geography, Halton county lies between Toronto and Hamilton. It's in what used to be called the Golden Triangle and it stretches from the shores of Lake Ontario up to Highway 7.

In many ways Halton county is Ontario in microcosm. We have a densely populated urban area in the south, we have a middle range which is largely rural and agrarian, and in the north we have the rock climbers paradise of the Bruce Trail.

We do represent doctors, obviously, who work in large centres such as Oakville and Burlington, but there are also members of our organization who work in the metropolises of Milton, Campbellville, Limehouse and Speyside.

Many of our doctors are family practitioners and we provide comprehensive medical services. For example, if any one of you comes to our hospital, which is Milton District Hospital, Dr Koslowski and my family practitioner colleagues and I will suture your wounds, we'll set your fractures. If you have the misfortune to have a heart attack, we'll take care of you. If you're diabetic, we'll take care of that. We deliver babies. We intubate and ventilate people. We occasionally save lives and we counsel and comfort our dying patients.

We sound like a fairly competent group, but occasionally things do turn up that we can't handle, and we're here today to tell you what we feel is going to happen to our patients in this respect if Bill 26 is allowed to pass without amendment. Initially we'd like to talk about adverse effects on services. Our most concern at this point is with obstetrical services, and I'd like Dr Koslow-

ski to give you an idea.

Dr Koslowski: I'm a general practitioner and have been in practice in the town of Milton for something like 27 or 28 years. I do provide comprehensive care that includes an office practice, where the major source of my income comes from, but I do admit patients to our local hospital, I discharge patients from there, I take care of them while they're there. I do some calls in our emergency department, and did so this last Sunday, and yes, I do obstetrics.

Well, 1995 is a bit of a different kettle of fish than 1965, and I would just like to point out some of the problems that someone like myself has encountered. When I graduated and first set up practice in Milton in 1968, my CMPA rates were \$25. That was a uniform fee across the board for every physician, not only in Ontario but in Canada. It didn't matter whether I did brain surgery, orthopaedic surgery or general practice, \$25 was the going rate.

My rate for this coming year—and I'm classed as a code 78, and that is simply because I do obstetrics—is going to be \$4,432. If you want to look at the fee schedule for obstetrics, a vaginal delivery, that's a P0006, is \$242. That means in order to pay this CMPA rate, I would have to do something like 20 deliveries. At this point in time, obstetrical practice is somewhat on the decline. I am an older practitioner. I still do 30 or 40 deliveries a year. Some of these patients I did deliver some 20 years ago. It's rather a pleasant thing for me, and I'd like to continue doing this. In fact, my patients appreciate me providing this service to them. But does it make economic sense to do this if I have to pay my own CMPA rates?

The previous government saw fit to partially reimburse me or totally reimburse me for these CMPA rates, recognizing the fact that really my income had been capped and I could not pass this increase in costs off to

my patients.

While my plight seems rather sad perhaps, it pales by comparison when I talk to my obstetrical colleague. We do have one consulting obstetrician in the town of Milton. His rate in 1968 was \$25. His CMPA rate for the coming year will be \$23,340. For a caesarian section, my colleague gets about \$290.60, \$300. In other words, he'd have to perform about 70 sections just to cover his CMPA rates. In town, he does approximately 40, and he has simply stated that under those circumstances he no longer will provide that service. Can you really blame him?

Personally, I have practised in Milton long before an obstetrician came on the scene. The town, when I first started there, was about 6,000 people. It has now grown to a town of 35,000. While I might be willing to continue doing obstetrics without the use of an obstetrician, my younger colleagues have indicated to me that this is totally unacceptable to them. The net effect is that with the stroke of a pen the Minister of Health, if Bill 26 becomes legislation, has ended the practice of obstetrics at my hospital.

Dr Maley: I'd like to address another area in which we find ourselves lacking at times, and that is the question of orthopaedic coverage. As I outlined, our town is bordered on the north by Highway 401, on the south by the Queen Elizabeth Way and on the west by the Niagara Escarpment. You can imagine the sort of jams people get themselves into. Now, we can handle orthopaedic problems at our hospital. However, a year and a half ago our orthopaedic surgeon left for Virginia, and we've been

scrambling ever since.

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It's fine to talk about things like integrated trauma programs, but in the past year I have had a couple of patients who've come in badly injured; one young man with two broken heels, a broken leg. I spent hours on the telephone, only to call a trauma centre finally and be told that this man wasn't sufficiently injured to be looked after by the trauma centre.

In summary, from our standpoint, orthopaedic coverage, not just obstetrical coverage, is also stretched to the limit in rural Ontario, and we feel again that by decreasing the Canadian Medical Protective Association rebate, orthopaedic surgeons will be even less likely to want to treat and transfer people from rural hospitals to larger centres.

To us it makes no sense to, on the one hand, try to improve physician coverage in rural Ontario while on the other hand to decrease their ability to perform the job, to make their overhead higher, to make their lifestyle more onerous. These people will, once they move to rural Ontario, get the hell out.

If I could just talk about "unnecessary services," this is a term that does crop up many times, and frankly it's

quite insulting to physicians such as Dr Koslowski and I. We work in a small town. By and large, we all have more patients who make more demands on us than we're able to address. We're getting stretched hither and you and we're not able to satisfy any of these people.

If the goal of Bill 26 is to rid the health care system of the minuscule amount of fraud that physicians perpetrate, it will certainly erect further layers of bureaucracy and that will certainly further hinder health care delivery.

Bill 26 threatens to require physicians to reimburse the health service plan for so-called "unnecessary services," but who decides what are unnecessary services. Is it going to be a civil servant at Queen's Park?Now, next week when I work in emergency, am I going to have to keep second-guessing myself that I'm going to run afoul of the whims of some Queen's Park mandarin?

When a doctor works in emergency, he or she is confronted with a variety of problems and the trick is to differentiate the trivial problems from the life-threatening ones. This is not always easy. Oftentimes you have to follow your intuition and you make a judgement based on experience, so-called, which is what one of my professors called an "educated guess."

Since I've been free to do this up until now, I've personally, in the last couple of years, detected brain haemorrhages in three very young people whom you didn't expect to have an intercranial problem, and I was able to send these people off for lifesaving treatment.

However, if the current propositions in Bill 26 were enforced at that time, none of those people would have been diagnosed. I would have said: Do I really have to send them for the CT scan? If it turns out that it's negative, am I going to be required to pay back the ambulance and the radiologist and the CT scan time?

If you take this a little further, abdominal pain is a particular bugaboo for physicians. This person who comes into emergency tonight complaining of abdominal pain: If it's a young woman, is she having a tubal pregnancy? Does she have the flu? Does she have a appendicitis? How do I find this out?

If I feel uncomfortable currently about my patient's symptoms, I can ask a surgeon to see him or her. But what then if the surgeon goes ahead, is sufficiently concerned to take the person to the operating room and then takes out a normal appendix? Will I have to pick up the tab? Will I have to pay for the surgeon, the hospital, the operating room, the nurse?

All of these things are going to become issues that doctors start to think about, and when this happens it's

going to begin to affect our judgement.

We feel that Bill 26 will severely penalize the practising physician for merely doing what he or she feels is best for the patient. From a political standpoint or a financial standpoint this may be desirable, but I feel that physicians may become so preoccupied with dollars and cents that their judgements will be affected and certainly patients may suffer and may die.

I feel that it's preferable to focus our creative energies on relieving suffering and alleviating pain, rather than having to concentrate on potential financial penalties

levied by Queen's Park.

I'll just move on to the last portion of our discussion, and that's about patient confidentiality. The far-reaching tentacles of Bill 26 will certainly endanger our patients' privacy. This bill allows the Health minister, as Ms Lankin pointed out, to appoint inspectors who will act under the direction of the general manager of OHIP. One of the principal flaws in this bill is that it concentrates far too much power in this person's hands. This person is a bureaucrat, has no political or legal accountability, since any decisions he or she makes we have no legal recourse to challenge. It seems to me, therefore, that at least within the Ontario health care system, the government intends to replace the rule of law with the rule of man, or more accurately, with the rule of two men, the Health minister and the general manager of OHIP.

Inspectors appointed by the general manager would have wide powers of entry without warrant, inspection—really, powers that CSIS or the RCMP would salivate to have. Any judicial oversight would be eliminated. This really is an attack on our civil liberties that date back to the Magna Carta. Any physician who does not fully cooperate with such inspectors could face a stiff financial penalty regardless of whether this physician is found to be guilty or innocent. So much for the presumption of

innocence.

Bill 26 would require physicians to surrender any confidential patient information that suited the whims of the general manager of OHIP. Such information would have to be submitted without warrant or without the necessity to show just cause. The breadth of Bill 26's attack on patient confidentiality extends even further. This bill would allow the government to collect, use and disclose a much wider range of personal information than is currently the case. In addition, and much more disturbing to me and my colleagues, is that the government would be allowed to "contract with a private organization to obtain and disseminate confidential patient information."

There's a lot of scope there. The implications are obvious. Organizations that are cash-strapped, such as the Workers' Compensation Board, could bring pressure to bear to gain access to confidential information in order to improve their cash flow. I can only hope that I'm able to retire or that hell freezes over before insurance companies and the Credit Bureau of Metropolitan Toronto are able

to gain access to my own personal health file.

In summary, I feel that Bill 26 has awesome ramifications that legislators—I hope—are only beginning to realize. Enormous powers will be granted to the government which will allow it to unilaterally dictate where, when and how physicians will practise. It provides a tool for the assault on the civil rights of patients, physicians and other citizens of Ontario. It denies traditional legal recourse against arbitrary government actions, ignores long-cherished principles of presumption of innocence, permits arbitrary entry in search of private premises without warrants or judicial oversight.

It seems to me that the task of your committee is actually quite straightforward. You must decide if you believe in the rule of law and if you're willing to uphold

that. Thank you.

The Chair: Thank you, doctors. We now have some time for questions, about three and a half minutes per party, beginning with Mrs Ecker.

Mrs Janet Ecker (Durham West): Thank you very much, doctors, for a very good presentation. I'm from Durham region, so I can appreciate and understand. We have very similar concerns. I think we've seen all the last three governments wrestle with the underserviced area problem and it still seems to be getting worse, and now Halton region has got underserviced areas. It's quite difficult, and we have to look at how we can best get some of those problems solved.

Just getting back to your concerns about confidentiality, I agree, confidentiality within the health care system is a fundamental principle. We all know there is misuse within the system, and when I use the term "misuse and abuse," I'm talking about everybody within the system, I'm not focusing on physicians. As you say, there is a small number, but we also know about and I've heard from many doctors about doubledoctoring from patients and whatever. How do we eliminate that to the extent it is possible to eliminate it, still protect confidentiality and make sure that the dollars being spent there are going for your patients?

Dr Koslowski: It's perhaps a difficult problem, but the impetus of this particular bill would be to create a further layer of bureaucracy, another investigating body that would have rights to go into doctors' offices and look at charts. I think the College of Physicians and Surgeons of Ontario, through its medical review committee, has ample mandate to do just that.

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Surely, if there are peculiar billing practices, your fancy OHIP computers must be able to pick that out. As far as I'm concerned, there is an existing setup to investigate questionable billing practices among physicians, and I don't know why this isn't being utilized. From my own personal experience—I've been in practice for some 20-odd years, and let me tell you, for the first 20 years I never heard from the College of Physicians and Surgeons, and within the last five years I think I had three letters from them.

Mrs Ecker: It's the college that has expressed some concerns that the system does need to be improved. The

question is how best to do it.

The other question I'd like to ask: The minister's been clear that he wants to work with the OMA to try and solve the insurance problems for obstetrics particularly, both GPs and obstetricians. Given that they're talking about increasing the rates of the Canadian Medical Protective Association 20% next year, has your society ever lobbied the CMPA to say, "Wait a minute"? As soon as the government started picking up the tab, the rates just went up like that. We question the need for that, and they haven't been able to demonstrate actuarially that that's justified. Have you ever lobbied them to say, "What's happening with the rates?"

Dr Koslowski: No. Actually, I think the CMPA is in my ball court, acts on my behalf. It was initially set up by physicians to protect us from rather large, litigious settlements. If you compare that with the American experience, the CMPA has done us a favour, because our rates are still far more reasonable than they are south of

the border in terms of fees.

Mrs Ecker: Yet you're still having difficulties. There are difficulties for you being able to pay it, though, if you ended up—

Dr Koslowski: This is true, but that is not really the fault of the CMPA. It's the fault of the system. In Canada, much south-of-the-border consumerism has hit the market. Patients come in, they demand certain things, they demand good treatment. I suppose everybody should get good treatment, but then again, it's the consumer who demands a certain treatment. I think the expectations are enormous, that every procedure, every pregnancy, will end up in an uneventful event. Nothing could be further from the truth.

Obstetrics is sort of my pet peeve. Here you have a normal physiological event. This, in our society, suddenly has become a high-risk endeavour—the highest premiums for the physician who does obstetrics. To me, this doesn't make any sense. Nature is never very kind. There will be a certain number of pregnancies that will end badly, and it doesn't matter whether it's a physician that's looking after that patient or whether it's a midwife. It's nature. But why are we, as physicians, being taken to task for the whims of nature?

Mrs Caplan: There are two issues I'd like to explore, and I'm really glad you raised the particular concern around the impact on family practice as well as obstetricians, on delivery.

I know for a fact, because we heard from the College of Physicians and Surgeons, that the minister was warned this would happen. I cannot believe he would have proceeded to do this without making the necessary arrangements to ensure that women would have access to the care they need. If family doctors don't deliver, if obstetricians switch their practices to gynaecology, they're not going to allow birthing centres and midwives to—who's going to help women in need when they're ready to deliver their babies?

Dr Koslowski: I'm afraid I have no answer to that one for you.

Mrs Caplan: I'm tremendously upset that he didn't heed the warnings of the College of Physicians and Surgeons, who act in the public interest.

The second issue—we only have a couple of minutes. I wish we had more time to pursue this. You raised the issue of inspectors. Contrary to what the parliamentary assistant said yesterday—we're getting that Hansard and I'm going to demand an apology from her, because I believe it is wrong to give inaccurate information to presenters—the inspectors that the minister appoints under the new powers of this legislation, section 40.1, could be anyone. There's no guarantee, as there is now, for the assessors and inspectors appointed by the MRC and the College of Physicians and Surgeons that any of those inspectors are required to be doctors. There's nothing in this legislation that would not allow any bureaucrat, any civil servant, without any training, to be appointed by the minister.

I have already said that I recognize the need to enhance the resources and the powers of the MRC and the College of Physicians and Surgeons. I don't understand why the minister, except at the urgings of some of the ministry people, who'd like a parallel process, is

doing this. We know there has been no consultation with the Ontario Medical Association or the College of Physicians and Surgeons on this provision. I'm wondering if you have any views about why the minister would insist on having the powers to have his own inspectors, who would not be required to be doctors, to be able to walk in and look at all doctors' records and have access to patient information. Can you imagine why he would want to do that?

Dr Koslowski: No, I can't imagine why, and that's why I'm sitting here. This particular bill I find about as obnoxious as the comments attributed to the minister in Tuesday's Globe and Mail. To paint all physicians of the province as a bunch of crooks is beyond belief. We've heard things along these lines before, and I'm sure there are some fraudulent physicians out there, but as far as I'm concerned you've got the mechanism whereby you can nail some of these boys, and if there are a few rotten apples in the barrel, let's get them and get on with the job. But to say to me that I am literally screwing the system—I don't believe so. I think I've given the system a good bang for its buck.

Ms Lankin: I truly appreciate your taking the time to come forward. I wish we had more time to explore some of the issues. I am very interested in the concerns you've raised about orthopaedics. We've heard the concerns about obstetrics before—it's an area that has been explored in the media and in some of the hearings by the presenters—but we haven't had an opportunity to talk about orthopaedic treatments and what it will mean for rural Ontario. That's one area I might ask you to pursue a little bit.

I just want to make a general comment. As I listen to you, it strikes me again that this bill, which takes such huge new powers on to the minister and the bureaucracy in the Ministry of Health, really allows civil servants to step in between you and your patients. While I personally support the need for a consensus management of the system overall, not micromanagement, not the medical decisions that need to be made between doctors and their patients in terms of patients' health. I really am very concerned about that. It is a bureaucratization of health.

It is also an undercutting of volunteerism in our communities, the fact that he can step in and take over the running of hospital boards without the controls and safeguards that were in the previous legislation. When I asked the minister directly why he would do that when there have only been a couple of occasions in the past where it was necessary to send the supervisor into a hospital, so why take on these greater powers, he had no answer. It seems to me that there are folks someplace in the bowels of Queen's Park who have put their wish list together and it's come out in this legislation, and we don't have time, the way the government is ramming this through, to dissect it piece by piece.

I also found abhorrent the way the minister scape-goated physicians. I think he was under attack in terms of this legislation, under a lot of pressure, and he lashed out. As the OMA yesterday said, he must have been having a bad day. Let me tell you, I don't want to give this guy any more powers if that's how he behaves when he has

a bad day.

Would you please though go through the issue of what it means for orthopaedics? I didn't quite understand why you said orthopaedic surgeons would be more reluctant, given the CMPA rates, to refer from rural Ontario or accept referrals. Could you give us a bit more in-depth explanation?

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Dr Maley: I'll try, if my attention span is still with me. Our problem is that when a person has a major orthopaedic injury in rural Ontario, they must be transferred somewhere. In order to transfer a patient to another hospital for definitive treatment, one must find an orthopaedic surgeon who is willing to accept the patient.

A lot of this depends upon your personal rapport with the person on the other end of the phone; a lot of it depends upon the availability of facilities at a given time. But let's just say that the orthopaedic CMPA fees have increased almost as high or almost to the same degree as the obstetrical ones, I would think this is going to put orthopaedic surgeons into a fairly surly frame of mind, and I think they'll probably be a little less accommodating to us in the future if this is going to happen.

In addition to which, orthopaedic surgery is a very desirable specialty to be in with respect to job blandishments from south of the border, so I think we'll lose orthopaedic surgeons to the United States, and those that

remain will be less accommodating.

The Chair: Thank you very much, Ms Lankin. Thank you, doctors, for your presentation. We appreciate your

being involved in the process.

Ms Lankin: Mr Chair, I'd just like to put forward a request at this time. As I understand it, at noon today we will be debating a motion which will be calling on the government to extend public hearings and to split the bills. Yesterday, I informed this committee that there were already 316 applicants for the 274 available hearing spots across the province, as we travel.

I would appreciate it if we could receive an update on the number of applicants on the waiting list here in Toronto, the number of remaining spots, and the number of applicants updated today that have applied for out-oftown hearing spots so we would have that information available to the committee as we debate the motion.

The Chair: Okay, Ms Lankin, we can get that. We don't have to wait till lunchtime to deal with the motion. I've had a ruling that the motion is out of order because it is not in accordance with the December 12 order of the House under which the standing committee on general government is operating. Even if such a motion could be and then was passed by the committee, it could not override the abovementioned order of the House which has priority. That order of the House indicates that the standing committee on general government shall report the bill to the House on January 29, 1996, and that if it does not do so, the bill shall be deemed reported to and received by the House.

Mrs Caplan: Mr Chair, the motion is a request to the House leaders to reconsider that. That's all the motion is.

The Chair: The motion has been ruled out of order.

Ms Lankin: Could I ask a question, not with respect to this particular ruling that you've made. Could you be of assistance to us and advise us as to how we could put

forward a motion that would be in order that would request reconsideration of this. As you know, when we report to the House on January 29, if there is all-party agreement that has been worked out between the House leaders, a motion could be passed through the House at that time which would supersede the orders of the House that you referred to. So if you could help us structure this in such a way as it would be in order, I think there is a very significant interest, at least on this side of the room, in debating this motion and in attempting to get more time for the people of Ontario to have input into this bill.

The Chair: I would think that kind of a discussion would have to begin with the House leaders. I would suggest that it be taken up at that level. Basically, the committee has to operate under the orders it was given. Any change in those orders would have to emanate from the House leaders, so I would suggest that you bring that

up with your House leaders.

Ms Lankin: Just to follow up on that—*Interjection.*

The Chair: I'll finish with Ms Lankin first.

Ms Lankin: I just wanted to finish that my request to you, though, was for assistance in structuring a motion for this committee. I recognize that should the House leaders choose to meet at any time, they are free to do that, but we on this side would like to have a request debated here from this committee to the House leaders to meet to discuss this. So if you could help us structure that motion so that it would be in order, that would be of great assistance to us.

The Chair: Okay, I will take that under advisement

as to whether or not that's possible.

Mrs Ecker: I'll leave it with you to follow through, as Ms Lankin has suggested. But what I did wish to put forward to the committee is, depending on what happens with that motion, would it be of some assistance to have 20 minutes for presenters? We could get many more in. I recognize that's a short time frame, but we could perhaps get more in in advance of whatever decision the House leaders might well decide to make. That means all of us would have to be very short on questions, and I appreciate that, but that is one suggestion which might help take up some of the people.

Mrs Caplan: I raised the motion this morning on behalf of our caucus and of the opposition parties frankly because of the size of the growing waiting lists. This committee has not yet even advertised out of town, and all the slots are full. We are anticipating that over the course of the hearings we'll be able to see about 400 presentations to the committee. As I understand it, the expectation is the lists will be more than double that.

Frankly and honestly, I don't think any change in the 30 minutes would accomplish—you can see how little time there is now to talk to the people who are coming forward, and I wouldn't want to frustrate them any further by the fact that there is no time for any real dialogue. But second to that, even if there was a small amendment to the amount of time, we still could not possibly accommodate the overwhelming majority of people who have requested so far to come before the committee and those who we anticipate will respond to the knowledge that the committee is going to be in their communities around this province.

The motion I placed this morning was a very reasonable one. We understand that the government may have some requirements for January 29, but as we've looked at this bill, there are major portions of this bill that we believe would not impede the government's fiscal requirements and could be dealt with when the House resumes on March 18.

The intention of the motion was to accommodate those people who want to be heard, to accommodate the government's desire and right to bring forward its agenda, but also to request the House leaders to consider this expeditiously in light of the growing frustration that people are going to feel if they are denied access to this committee in a timely way. We want to anticipate what could likely occur across this province if they are denied.

The Chair: Excuse me, Mrs Caplan.

Mrs Caplan: That's the reason I place that motion—

The Chair: Excuse me, Mrs Caplan.

Mrs Caplan: —and I would request assistance on drafting one that would be in order.

The Chair: Excuse me, I have ruled on that motion. We won't talk about that any more. I have already told Ms Lankin that I would take an additional request under advisement and report back, and I will do that.

Is this about this same motion?

Mr Alvin Curling (Scarborough North): There's a suggestion made by Mrs Ecker about the time. When you're going to rule on this motion, or you're suggesting that you're going to be coming back on this motion, I would then say to you, please do not consider cutting it down to 20 minutes because, I'm telling you, the frustration is very high out there. As a matter of fact, as we see how complex this bill is, people are saying even 30 minutes is not adequate for them to present their case. I think what we are looking at is an extended time for more people to participate in this.

The Chair: I will report back on that possibility.

UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION

The Chair: We had a cancellation at 10 o'clock; it's interesting. Our next presenters are the group scheduled for 10:30 who are here early, United Food and Commercial Workers, represented by Bryan Neath and Jay Nair. Welcome, gentlemen.

Mrs Caplan: Mr Chair, before we begin, in light of the fact that we had a cancellation, I did make a request that the parliamentary assistant who's here representing the ministry correct the record and apologize. Could she please do that at this time?

The Chair: Mrs Caplan, that request is out of order. Mrs Caplan: When will it be in order?

The Chair: It will not be in order. There are differences of opinion that have been expressed on both sides here. We will not be in a position to apologize for all of them.

Okay, gentlemen, welcome to the committee. You have half an hour to use as you see fit. Any time you leave for questions at the end will be shared equally by the parties, beginning with the Liberal Party. The floor is yours.

Mr Bryan Neath: Thank you very much. Let me first introduce ourselves. My name is Bryan Neath, I'm the Ontario assistant to the Canadian director for UFCW. With me is Jay Nair, who is the director for the health care education sector of Local 175 of UFCW.

Perhaps we need, for some people around this table, to have a small introduction of the UFCW in total so you can have an understanding of why we are here.

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Our union, the United Food and Commercial Workers Union, is the largest private sector union in North America, with 1.4 million members. We have over 185,000 members in Canada and over 80,000 in the province of Ontario alone. We represent more than 20 sectors. We're in the industry sector of the food side, we're in the service sector on the food side. On the service sector side, we represent education workers, municipal workers, health care workers; we have health care workers in the non-profit nursing homes and in the for-profit nursing homes. We have hospital workers under collective agreement in UFCW. We have a statement in UFCW that we literally represent workers from the cradle to the grave, because we also have funeral workers who are represented by United Food and Commercial Workers.

Let me tell you that we also have across Canada, in all other provinces except for the province of Ontario now, agricultural workers. Most people around this table will know why we don't have any agriculture workers left any more: it's because by the stroke of a pen by the Tory government—this government—suddenly those workers who were represented by us are no longer represented by us. I think that's clearly an indication of this government, which clearly is an indication on this bill of this government, that they do not care about working people and that they're more concerned about the question of economics and business.

I guess for me to start, I would like to say I thank the opposition parties, both the Liberals and the NDP, for being here, because I believe without them we would not be here to be able to make our presentation to this committee, because I'm sure that the hope of the government of the day is to have this rammed through legislation so that people like us cannot come here to make these presentations. Let me echo some of the comments that were made in the debate that happened before our presentation.

Thirty minutes is not even close enough for us to make this presentation. Because we represent so many members and because the bill is so extensive, it's impossible for us to deal with all of the issues. We're here in the health care sector today to deal with the questions in the bill dealing with health care, but most of the sections of the bill are so intertwined that they're going to have such an adverse effect on working people, not just working people in the health care sector, but also working people in all sectors of this province and certainly in all of the sectors that we represent.

I would like to make one other final introductory point, that UFCW takes great pride in making presentations to standing committees. When we do this, we usually do this under the aspect of doing it bilingually. We always have had bilingual presentations. Unfortunately, this

government has rammed this through so fast, so quickly, and it's such a deep, in-depth bill, it was impossible for us to have a bilingual presentation for this presentation and we're actually quite annoyed about that aspect of it.

Again, as I indicated, this bill is extremely extensive, and although we have touched on almost all aspects of the bill in our presentations, we certainly are not going to go through it. In some of the sections we didn't put in the information we really wanted to and, again, that had to do with time. But we have touched on those sections.

I'm going to pass off to Jay and Jay's going to go through the document for you in a point-by-point area. We aren't going to deal with the schedules B, C, D, E, H, I, K, L, N and O, but, hopefully, we'll be able to have time to touch on some of those other sections. Jay?

Mr Jay Nair: Thank you, Bryan, and thank you for allowing me to do the presentation on behalf of the health sector. It makes me share with you the discussion I had with my wife this morning, the architect of my destiny in partnership. The first question she asked me was, "Where are you going today?" I said, "I'm going down to Queen's Park." She said, "What for?" I said, "I'm going to do a presentation on Bill 26." She says, "What's Bill 26?" "Well, it's something that's going to gut this province from what we have and what we are going to have." She says, "Are they going to listen to you?" I said, "At least one out of the 20 or 30 people who are around may listen, and somebody has to do it."

That's why I'm here today. Thank you for that, and I thank the parties that brought this about—the opposition parties to this Tory government which is trying to recarve or reshape Ontario, not to the Ontario that I enjoyed for 20 years, but to the Ontario that my children and grand-children are not going to enjoy. So that's how bitter I am here today, trying to present a document to you and trying to enlighten those who are trying to reshape the province not to be a province of haves but a province of

have-nots.

Having said that, I would like to bring to the fore the very act to achieve fiscal savings and to promote economic prosperity through public sector restructuring. The target is the public sector. And economic prosperity to whom? For whom? For the buddies who put you in government or for the population, the Ontarians that we have in the province, for all partners in this province? I am one for partnership and I've dealt with partnerships; I've worked with the previous government with partnerships.

I don't want to go into much detail of what UFCW is

all about.

Why are we sitting here? The adverse impact of the small sector, the health sector, that we have, that we represent, will impact on the retail, the service, the industrial sector that we represent. It's a snowball effect. Whatever happens to the public sector will inevitably end up in the retail food store when the employees will be asked by the private sector operator or private sector owner to give concessions, give cuts, because there's no money flowing into the revenue of the retail stores or the manufacturing or the poultry plants. That is why we are sitting here and trying to present a picture.

In brief, I want to just bring to the fore what this bill is all about, and page 3 of our document gives you a

highlight of all the things. Let me just highlight two or three things.

It rewrites the rules for bargaining with police officers, firefighters, hospital workers and other workers in the broader public sector, and we have them—nursing homes for profit, non-profit, homes for the aged, psychiatric hospitals and day care and municipal workers—forcing arbitrators to consider the possibility of service cuts.

The arbitrators were sitting and ruling on briefs that both parties presented, and asked: "What is feasible? What is workable within the ambit of public sector workers?" They would transfer payments from the government, my tax and your tax, to go and pay for these services, for the nursing home residents, for the long-term-care residents, personal care providers and all that. The arbitrators ruled in a sort of unbiased way for and against, or for the working people of the respective homes

This bill is going to give the arbitrator the tool or the avenue to go and decide the possibility of service cuts. Let's take that in a scenario, a service cut in the public sector: hospitals, nursing homes, police services and so on. Less money coming into the coffers, less money going into the retail sector, less money coming back to the revenue department in the government, and what are you going to get paid on? Fresh air? Those are the things that are realistic. Those are the things that we talk about when you talk about reality.

Take the other one, the existing law giving preference to Canadian-owned non-profit health care providers. Is Ontario for sale? Yes, it is. This government said it's for sale, for sale to the high profit makers, the maximizing of profits on the backs of working people, backs of the sick, backs of the elderly, backs of the children. Those are the things that this province is heading into. We are going to get the Americans coming in here. We might get people from Europe coming in here. It's free. It's a free-market economy. Come in and do what they want to do and gut what we have earned over the years.

I'm only at 20 years. What I've seen in 20 years and the growth that my family has seen—am I going to find my children and grandchildren probably don't see what I saw? I've been struggling all my life and have come through systems that are worse than this, and we've

replaced them.

Just to highlight on the health care, we've found partnerships working before. We had discussions before with the health sector, the tripartite system, where the business community, the labour movement and the government sat around tables and discussed the future of health care under the long-term-care bill. The minister knows. She saw me before at the presentation of the MSA hearings. But they didn't listen to us. "This is what is going to be done and this is what we're going to do. You come in. That's fine. By all means present your views and so on and so forth, but we have an agenda." And that is the agenda that we are scared about, that my children are scared about, our children are scared about, and the future of Ontario is scared. They don't have the time to come here and pound at the doors and say, "Don't do this, don't do this," because we have it a little too good. They don't know what true suffering is.

1020

I'm just going to rush through and find—the document is self-explanatory and if at the time you ask the questions, that's fine. I'm looking at page 9. This bill, the Independent Health Facilities Act, eliminates the requirement of the present act that preference to operate independent health facilities be given to non-profit Canadian operators. That again is forcing or allowing for-profit agencies to come into the system, and I've seen it happen in many places; Liberty is one.

User fees and drug benefits: Are Ontarians with health problems expected to haggle over prices with pharmacists as they do with grocers for their tuna, and then get arrested on top of that? Are we going to go and defend them? No, Mr Chairperson and the panelists, we are not going to see that happen; we don't wish to see that

happen.

I'm going to touch on two things quickly.

Equality for women: The proxy method was put in place purposely to bring women's value up to what the male worker in the province was earning for years and years and years, to bring about the balance, to bring about equality. By a stroke of the pen the proxy method is gone out the window. Why? Is this government portraying the anti-women agenda? Is this government trying to say that the women are not essential partners in the workforce of the day? What is it? This bill is giving powers to the ministers to change whenever and if ever they want to. So that is something that this union, UFCW, is strongly against. We represent quite a number of women in the workforce and most of them are parttime to begin with. Therefore, we find that this is deplorable.

Municipalities: We heard from mayors that they're going to increase user fees. Even if you have a fire in North York, the mayor is trying to say you're going to pay a fee when the fire department comes to you. Are we going to allow that? So your money that you're giving back and you promised to give back in taxes to Ontarians, they're going to start paying somewhere else.

Last but not least on my presentation is the board of arbitration, which is crucial to our sector, the health sector, and the homes for the aged and nursing homes that go through the Hospital Labour Disputes Arbitration Act. We have arbitrators who over the years have been using the criterion "ability to pay," but they haven't given much credence to that, the reason being we don't have

such a thing as full disclosure.

Full disclosure means even a dollar that comes from the government, what do you do with that dollar to provide the care and the personal needs of the residents? This government is always saying the residents come first, but the money that's flowing from the ministry to the operator, we don't have the full and final disclosure of every cent, the profit. Is it allowing them to maximize the profits on the elderly? Is it this government's agenda to allow the for-profit operators to make as much as they can and let the haves and the have-nots and so on in a class structure that is going to be vastly different? So those are some of the things the UFCW is not going to be a party to and I don't want this government going that direction. Ability to pay has been used before.

In conclusion, Bill 26 represents the most authoritarian power grab in Ontario's modern history. It is an affront to democracy and a disgrace to Ontario that this Harris government has such little regard for the principles of democracy. Just as in the 1960s and early 1970s, when the United Nations declared apartheid as a crime against humanity, so is this Harris government of Ontario declaring crime against the population of Ontario, all Ontarians, not the affluent, not the rich, by passing legislation since being elected attacking the poor, less fortunate, elderly, disabled and children. Those are the people you're attacking, the future of Ontario.

We feel strongly that the United Nations should declare the Tory government of Mike Harris as a government that is guilty of crimes against humanity. I know there's some cynicism around the table, but this is something that I've gone through; I've seen this.

Once again we in the UFCW are demanding that you govern for all the people of Ontario rather than those you assiduously promote economic prosperity to. It has been already demonstrated that employment is not highest where real wages are lowest, and that low wages and high unemployment go hand in hand. So by lowering wages, this government will decrease tax revenue and increase social costs, and the unemployment rate will increase also. This results in people not having enough money to spend in the communities and on services.

We, the UFCW, again have to believe that this is not adequate consultation. A detailed analysis and full democratic discussion is necessary by all the citizens of Ontario in order to fully understand the ramifications of Bill 26.

Just for information, I brought in a document from South Africa, that we overthrew a government. That is what we call consultation. They had consultations by people presenting this way, but every citizen of the country—41 million of them—has access to the draft Constitution of the country so that they have input.

And how did they use it? They got in paper companies, private sector operators, to provide the free paper. So they printed the whole document, every article, the Bill of Rights right through to the end. And what has been done? It's given the opportunity for the people of South Africa to decide their own destiny.

But what have we done? We have become a Grinch at Christmas to come out with a document saying: "Listen, ram it through. Go right through the spectrum of the Ontario population. Limit the time frame"—I'm limited; I can see my time is running—and left it to the bureaucrats, left it to the ministers, who arbitrarily one day may get up and say: "Jay Nair has to be arrested. Jay Nair is earning so many dollars; he has to pay a tax." That goes for the population of Ontario.

So this is what this bill is sending out: a bad message, a message that's empowering a few ministers who can determine the destiny of the population of Ontario.

Thank you, Mr Chairperson.

Mr Neath: We purposely left time. Being in standing committees many times in the past, we realize that when you simply read through your documents—you already in most cases have preconceived ideas of the questions you

want to ask, and so we've left time for the questions. Hopefully, we'll get some good questions.

The Chair: We've got about three minutes per party,

beginning with the Liberals.

Ms Castrilli: Thank you very much for appearing today and for a very passionate presentation. It is very difficult in the time allotted to you to do any more than you've already done, and we thank you for that.

We on this side of the table share your concerns. We share your concerns about the content and we share your concerns about the process. Dealing with the former, in particular-you are the largest public sector union in Ontario, as I understand it?

Mr Neath: Not in Ontario.

Ms Castrilli: I'm sorry, private sector union in

Mr Neath: No, not in Ontario either. We are the largest private sector union in North America.

Ms Castrilli: In North America. All right, even better. Mr Neath: We're the second-largest private sector union in Canada.

Ms Castrilli: Second in Canada. Okay. May I ask, have you had any input on the legislation? Have you been consulted? Has the minister met with you?

Mr Neath: Very simply, the answer is no. We have not been consulted at all. We have not been consulted on any of the pieces of legislation that have gone through this government, and certainly not on Bill 7, which is another piece of legislation that has been and will be devastating to the workers of Ontario.

Ms Castrilli: From your brief, which we've not had an opportunity to read yet, it appears that you have a great many concerns, some of them detailed quite a bit. Do you feel that the bill in its present form could go forth? Do you feel that it should be withdrawn? Do you feel that there are some parts that should be split out of it? Do you have any views on that?

Mr Nair: My gut feeling? I'll give you two feelings. One, my personal, it shouldn't be there, because there isn't any evidence that says that something is broken. If you give me evidence—we don't want guesstimates. We don't want, you know, certain arias of people who say, "No, this is happening." Give us facts, give us figures. There's nothing there.

1030

The second thing as far the union is concerned is that it's going to impact on our workforce, it's going to snowball. It's not only the public sector, health care workers or the education workers or the municipal workers; it's going to adversely impact on even the gravediggers down in the municipality. It's them plus the retail sector we represent.

The whole economy is not going to go forward; it's going to go in reverse. Are we going to have a First World democracy and live in Third World standards? Is that the agenda? It's an assumption; I don't know. But this bill is going to empower some ministers to do things that—it's scary. It should be repealed. It shouldn't have anything short of full consultation. Go right to the depths of every part of the legislation and prove to us, prove to the working person in Ontario, that these are the problems and we want to rectify them. Fine, but not just ram it through-30 days, and then January 29 we get it passed, and on February 1 somebody gets up and says, "This is what's going to happen." I don't buy that.

Ms Lankin: Thank you, Mr Nair and Mr Neath. I appreciate your organization's efforts in putting a presentation together and coming down here. I was particularly struck by the newspaper document you showed us about how, in another jurisdiction, governments tried to communicate with the people about what it was they were attempting to do.

We have heard from people who wanted to participate in these hearings that in trying to get a copy of the bill and the compendium information—which is, by the way, well over 2,000 pages—calling the legislative library, they were told they would have to photocopy it themselves. At 30 cents a page, that's over \$600, and many groups and organizations could not afford that nor have the time, upon getting the 2,000-some-odd pages, to go through it and make a presentation and be here this week.

It is absolutely wrong on the part of any government to put together so much in one bill that people cannot have access in an affordable way to the information to be able to respond. That's one of the problems we have here.

In terms of that, together with the short time, you've been able to put together an analysis of some of your concerns in the bill. I wonder, have you really had the time to go out and consult with your members and educate them about what's in the bill and hear what they say from the front line? That's part of what we would all like to have the time to do. I know, as I sit here, that I have very little time to go back into my constituency and talk to my constituents. I read their letters that come in, but I'm not having that dialogue because the government hasn't left us time. What have you been able to accomplish in your organization?

Mr Neath: All we have been able to accomplish is to get our researchers and a few people who are knowledgeable on particular issues, such as Jay and myself, to put the document together. We haven't had time to talk to one member about what's in the bill, because it's impossible in a short time frame. We got a copy of the bill at a very late stage just to put the document together, and there hasn't been enough people who can sit down, certainly in our organization, in time enough to deal with

these pieces of legislation.

I had a conversation just last week with the people who deal with our pension plans, because there is a section here that deals with pension plans. We are quite concerned, even though this pension legislation you're dealing with may not affect us today, but it may affect us in the future in some other types of legislation, and we wanted to spend some time to deal with this issue on pension. Our experts who administer the UFCW pension plan are telling us it takes hours of work to deal with one page of changes to pension legislation, never mind to deal with what you have here. So we didn't even have time to consult on the pension side.

What needs to happen here, to respond to one of the questions before, is that you have to break this bill into many different sections, pension being one of them. We'd like to spend time and hours to deal with the pension question alone so we can make sure that what you're doing to the public service will not have an effect on the pension act in the private sector. We do have people in the public service too who will be affected.

We need time to have that debate. We're here in the health care sector. We're trying to get on on the other side so we can perhaps have in-depth debates on the other issues. We can't get in, because the lineup is huge.

Mrs Helen Johns (Huron): I'd like to thank you for presenting to us today. We'll make sure we read your submission. We haven't had time yet, but we will read it.

Of course, there are some fundamental disagreements I have with your presentation, especially Jay, and I just want to say a couple of things about that. You suggested Ontario should maintain its status quo. I suggest that Ontario can't maintain its status quo. From 1900 through to 1970, real growth in North America grew by 3.6%. Since that time, it's grown by 2.2%, and government since 1970 has not really changed the way it has spent. As a result of that we have gone into debt of \$100 billion, which allows us to have huge interest payments every year. If we maintain the status quo, that interest will grow at such a rate that we will have no health care and we will have no education and we will have none of the things that you and I hold dear and that I think are absolutely mandatory for my children and grandchildren. So the status quo is not acceptable. We need real change and we believe we need it right now.

One of the things you talked about in your submission was the restructuring of hospitals. I think you're saying that hospitals are not broken and that there doesn't need to be restructuring change. The district health council has told us that there needs to be change, there needs to be this commission or some body to move the system forward, because hospitals, left to their own, could not restructure. Could I have your comments on that?

Mr Neath: First of all, one of the things you should do if you're going to have some changes—and there needs to be change. We sit here as a union and we make this pitch to anybody. We don't think profits are bad. Profits are actually good, in cases; they keep some of our members working. We're not afraid to say that. Some people in the trade union movement may be afraid to say that, but we're not afraid to say that. There are some problems and there need to be some changes; there's no doubt about that. But what you do when you have problems and changes is sit down as a group of people in partnerships and try to find out, "What are the problems and how do we fix the problems?" What your government has said to us, through this bill, is: "You couldn't be a partner in this. You might not understand it enough. We have the legislation, we have all the answers, and we are going to ram that legislation through and we are going to give the power to the other people and not the power and/or the discussion and partnerships."

I sit on—I think I still do; I'm not sure any more—the retail sector strategy committee that was put up by the previous government. I sat with Wilf Posluns from Dylex; he was the chair of the committee and I was one of the co-chairs. We talked about ways we can work together to improve the retail sector in the province, and we came up with some very good ideas in order to have those changes

made. But here in this particular bill, in this restructuring you're talking about, there's no partnership, no discussion. Unless you have those things and unless you hear about how we could help in the input, you're just going to go—I believe your philosophy is—

The Chair: Thank you very much, sir. We appreciate

your attendance here this morning.

Mr Neath: I thought you would cut me off. I'm used to being cut off when I have—

The Chair: I figured you were going to go on there for a while. I was fairly generous with you.

Mr Nair: We need more time.

Mr Neath: We'd like to go on for a long time, by the

The Chair: Thank you very much. We appreciate your interest in the process and your presentation this morning. Have a good day.

At the risk of making sure that everybody comes back in five minutes, we're going to have a five-minute recess.

The committee recessed from 1039 to 1046.

The Chair: Our five minutes is up. Amazingly enough, almost everyone is still here.

TORONTO INJURED WORKERS' ADVOCACY GROUP UNION OF INJURED WORKERS

The Chair: Our next presenters are from the Toronto Injured Workers' Advocacy Group and the Union of Injured Workers, represented by Orlando Buonastella, Mark Bailey, John McKinnon, Carl McGregor and Marion Endicott. We may have to put one more seat up there.

Welcome to our committee. We appreciate your attendance here this morning. You have one half-hour to use as you see fit. Any time you leave for questions will be shared among the three parties, beginning with the New Democratic Party. The floor's yours, and if you could maybe identify yourselves so Hansard could record who's speaking, please.

Mr Orlando Buonastella: My name is Orlando Buonastella, and I have with me John McKinnon, Marion Endicott, Carol McGregor and Mark Bailey. We represent two organizations: the Union of Injured Workers and the Toronto Injured Workers' Advocacy Group. Our groups represent injured workers. We have been representing injured workers for over 20 years and we represent mostly injured workers who are on a permanent disability, so the most vulnerable group of injured workers and by implication one of the most vulnerable groups in our society.

In our experience, we have made presentations to many governments over the years: the Conservative governments under Mr Davis, the Liberals, the NDP government and of course today's government. I'd like to begin by stating that we have never seen a government that is afraid of public debate and afraid of public scrutiny like today's government, and we don't say this with a lot of pleasure.

We believe that it was a scandal that public hearings on Bill 26 had to be fought for. It's a sad day for this province when there has to be a province inside the Legislature—and we're used to being outside of the Legislature to advance our points—to get something that we were used to, and that is something so basic as public hearings on a very important and fundamental bill.

As I said before, we have had experience in dealing with another Conservative government, the government of Bill Davis. We were opposed to many of their policies on workers' compensation, which is our area of expertise, but they always welcomed our criticism and they always welcomed public debate. Often they weren't just doing it as an exercise. They listened and they actually changed legislation after public debate.

In 1983, for example, there was a government plan to change the pension system. They invited everyone to make submissions. They had hearings on the steps of the Legislature, unprecedented in our history, in order to hear everyone who came to speak, and they withdrew the part of the bill, in those days, that was objectionable and carried on with the part of the bill that had consensus.

They never called us a special-interest group; they never did. They never told us, "We don't need to consult because we have consulted before the election," because they knew the difference between necessarily being partisan before an election and the need to govern on behalf of all of the people when you're in government. That's when you need consensus and you're no longer carrying on strict and necessary partisanship, before the election.

They also know that you need to hear from people with expertise. This was a government that had expertise itself, having been in government for some 40 years. It wasn't a new government. They knew you had to welcome expertise. It's because of this experience that we are particularly strong and that we make an emphatic point about the need for democracy.

We will make specific comments, of course, on Bill 26, but let me start by saying that injured workers will be particularly hit by Bill 26 because injured workers tend to be, as you can very easily appreciate, on very low incomes, so user fees will affect them in a particular way, not proportionately, in other words; they will be particularly hit. And injured workers are not on a fixed income. Most injured workers don't have the full protection of cost of living, so they're already declining; their incomes are already declining from year to year.

We know also that after Bill 26 is implemented, more hits are going to come, very painful hits for injured workers, and they're included in the government proposals to reduce benefits by 5% weekly, to review the lifetime pension awards—a lot of our injured workers are very scared about this—introduce a three-day waiting period and reduce future economic loss awards by 15% to 40%.

When injured workers look at Bill 26, they know that it's not going to be only Bill 26, that there are other cuts to come. They're very much aware of this. Injured workers are also very much distraught about the rationale of why their benefits should be cut. I'm just going to talk a little bit about this and then my colleagues will talk about Bill 26 specifically.

Injured workers hear that there need to be cuts to benefits because expenses are going out of control.

Injured workers then go to the statistics and they see these are official board statistics: Benefits to injured workers, and they're represented by this graph, have been going down year after year, and in 1994 they're at the lowest point in 10 years. They were at the highest point in 1985, when there was a Conservative government, and injured workers come to us and they say: "Go figure. We need to cut our benefits because we're getting too much? But it's statistically wrong."

Then injured workers hear: "We need to cut your benefits because the unfunded liability is going up too much. It's out of control." And they say: "You go figure this. Our benefits are going down year after year and this graph of the unfunded liability is going up? It doesn't make sense to me. Can you figure it out for me?" They're thinking.

Then we go and look at the assumptions for the unfunded liability, this monstrous graph, this God that justifies injured workers' benefits being sacrificed. "We must sacrifice benefits because this graph is going up." We're looking at the assumptions. It assumes that inflation will be 4% until the year 2014, so the graph goes up. Benefits will go up according to inflation, a little bit less than inflation, so there's no real increase but the graph goes up because inflation goes up; that's the assumption year after year.

The assessment rates are frozen at \$3 for eternity. No wonder this graph is going up. So injured workers are in disbelief and they know that more cuts are coming.

Now we're going to make a few comments about Bill 26 to see how it interrelates with the cuts to compensation. We're going to start off with Mark Bailey.

Mr Mark Bailey: I want to address specifically an issue which we think is fundamental to workers' rights to access to information from the WCB which is raised by the amendments to the Freedom of Information and Protection of Privacy Act, which are contained in Bill 26.

Currently under the Workers' Compensation Act, workers are entitled to their file only if there is an issue in dispute. Often workers, and we as workers' advocates, make requests under the Freedom of Information and Protection of Privacy Act rather than under the Workers' Compensation Act because either we don't know if there's an issue in dispute or we don't know particularly what that issue is. So the Freedom of Information and Protection of Privacy Act is an important mechanism for workers to get hold of their files so that they can proceed with their claims.

As a result, the amendments to this act in Bill 26 raise some real concerns. Specifically, the provision in the bill for the institution of a specific fee which is determined by the Lieutenant Governor in Council raises the obvious spectre that impoverished injured workers will not even be able to get their objections off the ground because they are unable to financially afford access to their files.

The second amendment to the Freedom of Information and Protection of Privacy Act included in Bill 26 that gives us concern is the powers of the head of the institution to refuse a request if that request is frivolous or vexatious. Obviously, this raises the spectre that the board can refuse an access request, and that would necessitate an expensive and lengthy appeal to the Information and

Privacy Commissioner simply to get the workers' compensation objection even off the ground.

Those two aspects of the changes to the Freedom of Information and Protection of Privacy Act give us great concern. I think it's rather obvious that access to information from government institutions is fundamental to an open and democratic society, and we think it's somewhat ironic that changes to this act are contained in a bill in which the government has been accused, in terms of the procedure for its enactment, of also acting undemocratically.

That's it for my comments. If there are no questions, then I will turn it over to Mr John McKinnon.

Mr John McKinnon: I wanted to speak to you regarding one of the portions of the bill dealing with changes to the Health Insurance Act and the Health Care Accessibility Act. I too wish that we had more time to study this and analyse this, but I'm just going to touch on one of the issues now that is going to, in our view, have a chilling effect on the treatment and diagnosis of injured workers with permanent disabilities, and it's going to restrict their access to necessary health care.

The particular section that I'm dealing with is in schedule H, section 12 of this part of the bill, dealing with section 18 of the Health Care Accessibility Act. In a nutshell, it's talking about paying for services and saying that the general manager can refuse to pay a physician or can pay a reduced amount, "If he or she has reasonable grounds to believe that all or part of the services were not medically or therapeutically necessary." Then in subsection 18(5) it goes on to say that the general manager can require a physician to reimburse the plan if it later discovers circumstances which cause the general manager to believe that the services or the treatment were not medically or therapeutically necessary.

This, I think, has repercussions which are going to significantly affect injured workers in a number of ways, and I can only just touch on them now. First of all I can say, and probably all of you who have injured workers coming to your constituency offices can vouch for this, that the Workers' Compensation Board itself is responsible for a tremendous amount of referral to specialists and diagnostic procedures that are not medically necessary and they're not therapeutically beneficial, and it's the Workers' Compensation Board itself which often forces injured workers to go shopping from doctor to doctor.

There are a couple of essential reasons for this. One is that the Workers' Compensation Board has a profound bias against the opinion of the family doctor. Quite often the injured worker will suffer an injury or a disease from work, will see the family doctor, the family doctor will have a good grip on the situation and have an idea of what the appropriate treatment is, when the return to work and so forth should be, but that's never good enough for the WCB. Anyone who's made a phone call to the compensation board has heard an adjudicator say: "That's just the opinion of the family doctor. Why should I take the opinion of the family doctor? Our doctor, who reviewed the paper, says this person should be better. Maybe this person shouldn't be injured at all."

This bias against the family doctor results in the injured worker going back to the family doctor and

saying: "I'm sorry, this isn't good enough. I need to go see a specialist." The family doctor then begins this parade of referrals to the various specialists and the consultation reports, which are quite expensive to the health insurance plan, and then those reports come into the WCB only, in most cases, to back up what the initial gut feeling of the family physician was.

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The second reason, in addition to the bias against the family doctor, is the bias against the treating specialist, because often, even though the injured worker has gone back to the family doctor, been referred to some specialists, come back with some new reports, diagnostic procedures, X-rays and CAT scans and so on, the WCB still says, "We had our special consultant look at it and we don't agree." Once again, the injured worker is forced to go back to the family doctor and say, "This is not good enough."

The family doctor in many cases would agree that this is not medically or therapeutically necessary. However, these are their patients, and they have an obligation, if you check under the code of ethics of the Canadian Medical Association and, I believe, the College of Physicians and Surgeons, to provide whatever health care and referrals are necessary to assist their patients in making applications for any forms of disability-related benefits that the patients may be entitled to.

As a physician, the doctor has an obligation to continue this referral until there's enough paper built up at the WCB for them to see that the family doctor was right all along. The thing is, the WCB is not setting up these appointments; it's not taking responsibility for it. They are just saying: "I'm sorry, your benefits are cut. If you don't get more clear and convincing medical evidence, we're not going to pay you." The onus then is on the injured worker and the family physician to go from doctor to doctor to doctor at tremendous cost to the plan, not necessarily medically helpful or therapeutically necessary, but simply to deal with the bias at the WCB. So this is one reason.

What injured workers are going to be finding is that the compensation board is going to be saying, "Your benefits are cut because we don't think this evidence is clear and convincing enough." The family doctor is going to be saying, "Wait a minute. I can't send you to see these specialists. I'm not going to do any more X-rays or tests because it may come out of my pocket. I'll tell you right now, I know what's wrong with you and I know what you need to do, and that should be the end of it." But the injured worker is going to be caught between a rock and a hard place. The board won't pay the benefits; the doctor won't make the referrals. They're stuck.

There's another reason too why this provision of the bill creates special problems for people with permanent disabilities and for injured workers, and that's because basically getting better, getting rid of the disability is the only hope that injured workers have for any continuing participation in the workforce.

The WCB statistics for returning people to work are absolutely appalling. The board's most recent statistics of the re-employment rate among people with permanent disabilities three years after the injury show that of that group, the people with permanent disabilities, 80%—the exact figure is 78.4%—of those injured workers have not returned to work three years after their injury. Another amazing statistic published by the WCB is that of the people who were fortunate enough to get back to work within a year after their injury, at this three-year point 37% are unemployed again; 37% lost the jobs that they

got originally after their injury.

What this tells us is that the re-employment provisions in the Workers' Compensation Act aren't working. They aren't getting injured workers back to work. Carol is going to speak about the implications of the repeal of pay equity, but I just want to say that injured workers, like all people with disabilities, want to work, and injured workers can see the writing on the wall. The only way they're going to work again is if they get better and the only way they're going to get better is if they keep going from doctor to doctor to doctor till they find a doctor who knows what's wrong with them and who says he can fix it.

This bill is going to have a chilling effect on those doctors who would otherwise help an injured worker to find the appropriate specialist, to find the appropriate treatment, to do something, anything, to help him get better, because, once again, the doctors are worried, "This may come out of my pocket." The doctor may be saying: "I really don't know what's wrong with you. I can't say for certain that there's anything physically wrong with you. I believe you, but I don't know." If the doctors are worried about having to pay out of their own pocket for whatever further specialist investigations or treatment, they're not going to make the referrals.

Some people might say maybe we shouldn't be paying for people who go from doctor to doctor to doctor if there's no hope for them, but it's not the case that there's no hope for them. The Workers' Compensation Appeals Tribunal is a specialized tribunal that has been involved in a number of cases and has done an in-depth investigation of this issue. I just want to refer to you a couple of their findings on this point from the major decision, decision 915, which looked into permanent disabilities.

They say, "A significant proportion of enigmatic chronic pain cases are, however, in fact attributable to unfound or unfindable organic or physical causes." They go through all the situations where injured workers are thought to have nothing wrong with them and it's not the case. They talk about failed or mistaken diagnoses. They say, "About 10% of patients (who have had thorough work-ups) referred to pain clinics"—because there's nothing else that the doctors can do—"eventually are found to have a neoplasm or other occult [obscure] medical condition that slowly became manifest."

They say there are also a great number of cases where the organic or physical problem is simply beyond the current capacity of medical science to find; for example, "In the order of 10% to 15% of rheumatologists' patients suffer from intractable musculoskeletal pain of a previously undiagnosed origin." They also refer to a doctor saying that, with back injuries, "5% of vertebrae fractures are not picked up by X-ray examination."

Their conclusion on this point was "that some significant proportion of all enigmatic chronic pain cases will be cases in which, if it were possible to really know, the fundamental reason for the pain is organic not psychological." It's not in their heads. It's not a psychological problem.

This bill is going to have a chilling effect on the treatment and diagnosis of those injured workers. It's essentially a sentence to permanent disability for a lot of injured workers, people who would otherwise have some hope for treatment, for diagnosis, for a cure, if their doctors weren't constrained by the payment provisions of the bill.

I'll turn it over now to Carol McGregor, who is going to speak about another aspect of the problem of returning to work.

Ms Carol McGregor: Mr Chairman and members of the committee, one of the major documents that has come out through the federal government across the country in the last few years has been on the improved health status of people with disabilities after they have returned to work.

It's well known that health care costs have been reduced, Canada pension costs have been reduced, welfare costs have been reduced, because once people with disabilities are in the labour force, their general health care has improved. But we know from what John was saying and we know statistically from Stats Canada that the unemployment rate for people with disabilities is in the area of 60% to 80% in unemployment and underemployment. It is probably higher as we are seeing certainly cutbacks in both the federal and provincial services. I know personally that within the provincial government disabled people are being cut at a drastic rate, and we have been launching some appeals outside of my job here with the clinic.

There has been some perception, I guess the government's perception, that injured workers want to stay home and just collect their pensions. I assure you this is furthest from the truth. Injured workers have always lobbied for employment equity. You have killed employment equity. Employers have not rehired; they've not brought injured workers back into their workforce. Why is that? Can they not accommodate them? Under workers' compensation Bill 160, it says they have to accommodate them under the point of "undue hardship."

I am currently working for this legal clinic and I don't have any equipment. This legal clinic is at the point of undue hardship. If I can't get the equipment, I can't do this job and I have to quit and go back on pension. I am now currently trying to fight with your government just to get equipment.

Injured workers face the same situation within their own workforce. They face that situation of trying to get their positions accommodated, but employers do not accommodate. I can't stress to you the obligation of employers in terms of re-employing injured workers back into the workforce to improve their health.

The new government program that was recently announced that's going to provide accommodation equipment, my understanding is that's coming out of excess funds out of the access fund, which is a source for me, and it's only going to probably assist 30 disabled people out of 1.6 million disabled Ontarians. I find this appalling.

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Ms Marion Endicott: I have the final point to make, and that is on the board's financial improvements package. This is a big, fat document with which the board proposes to make major savings. Really, there are probably a number of points in this package that overlap with Bill 26. But one in particular that concerns us is the fact that the board has identified that the Ontario government, they believe, should be paying for the drug costs of injured workers with permanent disabilities over the age of 65; in other words, paying for the compensation-related drug costs. The government is already paying for the other drug costs.

The compensation board is looking forward to shifting \$900,000 worth of revenue costs per year from their responsibility to the responsibility of this government. We of course vigorously oppose that as taxpayers. We can think of many other better things to do with \$900,000 per year, lots of other services that need attention, when in fact it is the employers of Ontario who have the responsibility to pay for any cost that is related to any injury that workers sustain in the course of their work.

Bill 26 worsens the situation. It makes the shift even further and more regressive. Bill 26 introduces the concept of user fees and proposes to have individuals pay a user fee on any prescription. As long as it's under the Workers' Compensation Act the compensation board would pay for the entire cost because that is what is required by the legislation; however, if part of this cost shifts to the government, then under Bill 26 injured workers will suddenly be required to pay some portion of the costs arising out of their injury.

We simply cannot accept that. In the first place, as you may well know, I'm sure all of you, injured workers are not well off. They can ill afford this extra cost. In addition to that, it's just illegal. The Workers' Compensation Act requires that the injured worker not make any payments towards the cost of their claim; that's quite clear and quite correct because, as I will remind you, injured workers gave up the right to sue in order to receive this other kind of compensation.

Should injured workers have the right to sue, you can be sure that the employers of this province would be paying a lot more money on a yearly basis to injured workers than they are presently paying in assessments to the WCB. Workers have given up that richer benefit that they could be receiving, if they had the right to sue, for the security of workers' compensation benefits. It doesn't require that they go out and get lawyers and wait to find out what they're going to get, but rather it's paid up front on a no-fault basis.

The introduction of user fees, the shift to the Ontario government, simply does not fit within the concept of the Workers' Compensation Act. We have to put this into the context of the general problem of user fees. User fees, user fees, user fees. That's what Bill 26 is all about, right? And what are user fees?

Does this government think that the people of Ontario are so stupid that they can't recognize that user fees are simply a tax by another name? It is the most regressive form of a tax that is possible—there can be no more regressive a form—and simply continues the trend that

this government has initiated of disassembling society into fragments of individuals who are simply supposed to make do the best they can in the world.

The people of Ontario are going to become increasingly angry as every single little ritual in life has a user fee attached to it, from putting out the garbage to going to the library to take a book out. I mean, this is just unconscionable, frustrating and simply, for injured workers, too much to bear. They don't have that money.

You may know that injured workers already have a very high rate of taking their life. I don't know what the statistics are, but you will read every year of a number of injured workers in this province who have killed themselves in some form or other and the note that they have left indicates that the reason this has happened is due to their frustrations with the WCB, the way they have been treated, the problems of living in pain without adequate income.

I can unfortunately predict that if injured workers are forced to bear the burden of all these different user fees, including the ones on their prescriptions, which they shouldn't even have to be paying under law, but all those others too, if they try to take their kids to the swimming pool or to the library, life will become ever more unbearable for them and you will see increasing tragedy going on in this society, which is simply not correct from a human point of view, and if you want to look at the financial aspects of it, as this government is wont to do, it's going to end up costing the society more, in money as well as spirit and humanity. That's the point that I want to make on Bill 26.

I guess, sort of in summary, I'd just like to come back to the point that Orlando was making at the beginning about the unfunded liability. You may have wondered why he was talking about that, and how is that related to Bill 26?

One of the reasons it's related is that what we're finding is that this government is going forward with drastic, major changes to all sorts of bills without understanding what it's doing.

The unfunded liability at the WCB is something that is quite complex in some ways, quite simple in other ways, and it is not a debt. That's very clear. There are many things to be said about the unfunded liability, but the critical thing to understand is that it does not represent a financial problem for the compensation system, and yet it is being used as a reason for drastically reducing the benefits and services that injured workers require.

Mr Buonastella: The new god.

Ms Endicott: It's the new god, right, that we sacrifice injured workers to. So this is why we think it's important to make the point about the unfunded liability, for example, and of course Bill 26 is also fraught with these kinds of drastic, drastic changes, major powers put into the hands of a government which has shown itself over and over again to not really understand the basis on which it's making its decisions.

I thank you for having us here today.

The Chair: Thank you very much for your presentation. You've used up all of your half hour plus a little bit, so there isn't any time for questions but we do appreciate your attendance here this morning and your interest in the process.

Our last presenters for the morning are the Eli Lilly corporation, and I believe they're out in the hall. The clerk has just gone to bring them in, so don't run away. 1120

ELI LILLY CANADA

The Chair: Gentlemen, welcome to our committee. We appreciate your attendance here this morning and you have a half-hour to use as you see fit. Any time that you leave for questions, we'll begin with the New Democrats at the end. The floor is yours, gentlemen.

Mr Terry McCool: Thank you. We have to wait to

catch our breath here.

My name is Terry McCool. I'm the vice-president of corporate affairs with Eli Lilly. With me today is Dick Guest, who's the director of our Ontario operations, and Craig Martin, who's the director of government and professional affairs. We certainly appreciate the opportunity to appear before you today to offer our views on Bill 26.

We'd like to begin by stating that we support the government in its efforts to reduce the deficit and bring spending under control. In doing so, we believe that it's equally critical that the goal of quality, efficiency and effectiveness of health care not be compromised. Although many of our comments today will focus specifically on the proposed legislative changes, we'd like to offer some comments on the broader context of health care provision in Ontario.

First, I'd like to give you a little bit of background about Eli Lilly and company. We are an integrated health care company which provides innovative pharmaceutical products and health services within the Canadian health care environment. We are an Ontario-based company with our head office and fully integrated manufacturing and research facility located in Scarborough. We employ over 550 people in Canada, and 430 are employed within the

province of Ontario.

Our company's global mission is to create and deliver superior health care solutions by combining pharmaceutical innovation, disease prevention and management and information technologies in order to provide our customers worldwide with optimal clinical and economic outcomes. To this end, we have begun our transition from a traditional pharmaceutical company to an integrated health care company through the purchase of Sudburybased Rx Plus, a health benefits management company, and the establishment of a health management service company focusing on disease management.

At Lilly, we will also continue to work to discover breakthrough compounds that focus on unmet clinical needs. Our research focuses on five key areas: endocrinology, specifically diabetes and osteoporosis; infectious disease; cancer; the central nervous system; and cardio-

vascular disease.

Our Ontario research commitment includes the Lilly analytical research laboratory at the Reichmann research centre at Sunnybrook Hospital, and we are currently constructing a \$25-million bioanalytical laboratory at our Scarborough site. From 1990 to 1994, we invested greater than \$52 million in research in this province and in the past year close to \$13 million.

Through our integrated approach to health care, we will ensure better utilization of existing health technologies to provide more optimal outcomes. We will also explore opportunities to provide information that will help prevent diseases and utilize information and information technology to better manage diseases and improve health outcomes.

I'd like to comment briefly about health care in general and health care in Ontario.

Over the past decade, we have seen a growing increase in health care costs in Canada. Currently, the nation, based on 1993 figures, spends approximately \$72 billion on health care. That includes about 47% on hospitals, 15% on physician services, 16% on pharmaceutical costs and the rest on a variety of other health professionals, capital and some other expenditures. Ontario and a number of other provinces in Canada have used a variety of very blunt measures to try and control expenditures, and in fact much of the effort has been focused on drug expenditures, hospitals and physician services.

What is often left unacknowledged is that despite these measures, the demand for health care continues to escalate. Our population is aging. Demographically, seniors are the fastest-growing portion of our population and will continue to be for the next several years. Not only are the numbers of seniors increasing, they are living longer and healthier lives, thanks to many advances in lifestyle and in technology. The net effect is that it is not uncommon for individuals to suffer from several chronic diseases as they age. Treatment costs increase exponentially as people age. In view of these realities, without major gains in efficiencies and effectiveness, capping Ontario's health care expenditures at \$17 billion may be very difficult.

We believe that the health care environment is changing globally, allowing for and demanding a more integrated approach to managing health care. In the past, a significant amount of time and energy has been spent managing the component pieces of health care. Yet controlling individual components has not led to control of overall costs. Health care costs are very much linked to patients, their diseases and optimal treatment of those diseases. Integrating systems and information allows for better decisions and better allocation of resources.

Traditionally, we have viewed the management of a disease as a series of separate activities: diagnosis, treatment, either with pharmaceuticals or hospitalization with medical or surgical intervention, follow-up, observation and sometimes resolution. Each of these activities has been managed individually and separately. It was assumed that if health professionals and providers did the best job with each component in isolation, they would achieve the best possible outcome for patients.

Today, medicine has become too complex and health care costs too much of a societal burden. As a result, health care systems around the world are becoming more organized and integrated. People are beginning to recognize that components of health care are best managed together, with an optimal therapeutic and economic outcome as the goal.

That is why disease management is a patient-focused approach and provides a more realistic perspective of health care. Disease management is viewed as a connected set of activities that must be managed together rather than separately. Each component of treatment and patient care is planned throughout the disease cycle. Importantly, disease management stresses appropriate treatment along with prevention and early diagnosis.

We believe both Lilly and other pharmaceutical companies can play a role in disease management. It will require integrating systems to generate information that enables better decisions about the management of patients and their diseases. Disease management will enable physicians to make better use of pharmaceuticals and other interventions and as a result provide more value for the health care dollar.

As other costs are contained, we believe pharmaceuticals administered as elements of a comprehensive disease management program will often be both clinically and economically superior to other forms of treatment. As a result, therapy costs may appropriately rise as a percentage of total health care spending. Currently, 16% of national health care expenditures are on pharmaceutical costs. However, only 6% are on prescription drugs. The remainder of the costs are for over-the-counter medications and pharmacists' professional fees.

Despite the small portion of health care dollars spent on prescription drugs, this area continues to be the focus of cost-control measures. We are concerned that this cost management approach compromises the overall goal of integrated health care management and urge the government to change the focus from component management to disease management.

As health care continues to evolve and become more integrated, we believe that not only governments but also consumers need to be more knowledgeable about their diseases and how they are being managed. We also believe consumers should bear some personal responsibility for maintaining healthy lifestyles and should assume some of the costs associated with their treatment. As such, we support the government in its intention to add a component of cost-sharing to the drug benefit program. However, we believe that the copayment should not fall only on the drug component. As well, this copayment should not disadvantage those on social assistance or seniors on guaranteed annual income supplements. With this increased responsibility and cost-sharing, there should come increased choice and involvement in health care options.

Turning now to the proposed legislative changes contained in schedule G of the bill, we'd like to offer some more specific comments.

First, it is important to note that the wording of the accompanying regulations to Bill 26, which are not available yet, will be critical to ensuring the success of the proposed legislative changes. The Minister of Health is given increased powers, through regulation, to establish the reimbursement price for listed products and outline the prescribing criteria for products or therapeutic classes. Lilly Canada would like to review and comment on these regulations before they are passed next year.

Lilly Canada supports the proposed changes to the Prescription Drug Cost Regulation Act to deregulate the price of pharmaceutical products in the private market.

The artificial environment created by the best available price did not promote competition in this marketplace.

Contrary to media reports, we do not believe that this deregulation will result in significant price increases for patented products. I can commit on behalf of Lilly that we will provide all our products at reasonable prices throughout the Ontario market. We would further like to assure the public that any potential price increases on our patented products would be within the Patented Medicine Prices Review Board guidelines, the federal body that regulates patented drug prices. As you may be aware, the PMPRB regulates the entry level prices for new products and allows no more than the CPI increase on existing patented products.

To ensure transparency throughout the system, we recommend that the drug price, the markup and the professional fee be separately itemized in the information provided to consumers. This will enable consumers and private payers to monitor each component of their reimbursement cost.

We are supportive of eliminating BAP. We feel that actual acquisition costs whereby pharmacy is reimbursed for the actual cost of the product plus an appropriate upcharge and professional fee is a fair method of reimbursement.

While we continue to have some questions regarding the implementation of the price negotiation between the government and manufacturers, it is our interpretation that the PMPRB sets prices for new compounds and this process will be respected by the Ontario drug benefit program. As a component of this process, we understand that the cost effectiveness information will be reviewed by the government to determine how products will be reimbursed. As a result, we would expect to see a reduced role for the drug quality and therapeutics committee and a more open and transparent process.

For companies which distribute their products directly to pharmacy, their final price includes all distribution costs. For companies that use wholesalers as their method of distribution, their final price is the factory gate price to the wholesaler and does not recognize the cost for distribution. We recommend that the new regulations allow for different upcharges for products required through various distribution channels. We believe the wholesalers have a valuable role to play in the distribution of pharmaceutical products and would like to see that role recognized by an appropriate upcharge.

Bill 26 proposes to eliminate payments for no-substitution prescriptions. We understand the need to control expenditures in the ODB budget and recognize the ministry can achieve savings by eliminating no subprescriptions. However, we are concerned that it will be difficult to gain access to brand products when a physician deems it medically necessary. Furthermore, in all cases where substitution is occurring, it is our view that the patient must be fully informed before the generic product is substituted for the brand-name medication.

Consistent with disease management approach, Lilly strongly supports enhanced participation of the consumer in all aspects of health care. As consumers take more and more responsibility for payment of their therapies, they must be allowed more control over their choices and be

given the option of paying the difference in price between

brand and generic products.

Consistent with the recommendations of the Pharmaceutical Inquiry of Ontario or the Lowy commission, Lilly Canada supports a legislative amendment that requires pharmacists to inform patients when substitution occurs and allows them the opportunity to pay the price difference.

Bill 26 also proposes to restrict payment for certain drugs under the ODB Act to situations where specific clinical criteria are met. This process is known as linking

reimbursement to guidelines.

Lilly believes that several key considerations must be made prior to implementing the legislative change. First, we must stress that all clinical guidelines be evidence based to ensure their validity and their usefulness in clinical practice. Second, we believe that guidelines must not restrict the ability of physicians to tailor therapy to meet the needs of individual patients and we are concerned that linking guidelines to reimbursement may hamper the physicians' ability to address very specific clinical situations. In additional, communication and administrative issues could prove to be very costly and time-consuming if prescribing criteria are too rigidly enforced.

The current Ontario anti-infective guidelines were developed based on clinical judgement and experience. They serve as a useful educational tool and have been fully supported by Lilly. Based on this experience, we believe the industry needs to play a stronger role in the development and communication of appropriate guidelines and we would like to work with the government to develop, disseminate and implement these prescribing

criteria.

In conclusion, Lilly Canada recognizes the need of the provincial government to achieve fiscal savings and supports the general direction being charted by the government with this legislation. We believe that the proposed legislative changes are critical to the future of the pharmaceutical industry and the overall economy of the province. Eli Lilly Canada has been in Ontario for over 55 years and is committed to working with the government to ensure that the people of Ontario benefit from the optimal utilization of prescription drugs, which is believed by many to be the most cost-effective component of health care. Thank you. I look forward to your questions.

The Chair: Thank you very much, sir. We've got about five minutes per party left for questions, beginning

with Ms Lankin.

Ms Lankin: Thank you for your presentation. The committee appreciates you taking the time to be here with us. I have a few questions based on different parts of your submission, so I'll just run through them one at a

time perhaps.

On page 3 in the section dealing with consumer involvement, you talk about a general support for the intention to add a component of cost sharing to the drug benefit program, but you indicate that you believe the copayment should not fall on the drug component alone. Could you explain what you think should happen instead?

Mr McCool: Drugs currently fall outside of the Canada Health Act, but we think that issues around

deductibles or copayments fall within the drug area. We think that that probably isn't fair if consumers are going to take more responsibility for their health care. Specifically, we do not have any specific recommendations as to what things should be listed as copayment, but a lot of services fall outside of what is currently being covered by the government.

Ms Lankin: Are you suggesting that the government should be looking at user fees in areas covered by the

Canada Health Act, for example?

Mr McCool: I wouldn't go so far as to suggest that the government should be looking at user fees. I would suggest that the government should look at maybe what's covered under the Canada Health Act. I think that's where the first description needs to take place. The sense of universality and comprehensiveness is getting very, very difficult to afford within the context of the Canadian health care system, and I think the government needs to decide what it means by comprehensiveness.

Ms Lankin: I think the Finance minister agrees with you. He made similar comments in Ottawa at the federal-provincial finance ministers' meetings, where he suggested that the province required more flexibility and there should be changes to the Canada Health Act.

Mr McCool: We're just suggesting that it should be looked at, rather than only looking at making deductibles and copays associated with prescription drugs, because we think that penalizes the most appropriate utilization of

those drugs.

Ms Lankin: You indicated that you thought the copayment should not disadvantage those on social assistance or seniors with guaranteed annual supplement. Are you suggesting that there should be an amendment to the structure of the copayment as is set out in Bill 26?

Mr McCool: Whether it's an amendment or not, we think it should be looked at. We think that for some individuals there is a financial penalty based on the

number of prescription drugs.

Ms Lankin: Currently, the bill would provide that everybody, irrespective of income, would pay at least the \$2 user fee per prescription, and you think that might be problematic for some people.

Mr McCool: Yes, I do.

Ms Lankin: I'm interested in your view, and there have been some other representatives of the pharmaceutical industry who have echoed this, that the deregulation of non-ODB drug prices is something that, contrary to what we've read in the media, won't necessitate or won't bring about increased costs.

The pharmacists who have come here think that it might because they think they'll have a harder time negotiating, particularly independent pharmacists as opposed to the chains, or that it might drive everything into the large chain bulk-buying. The pharmaceutical industry that comes suggests that if there is anything it might be in the markup of pharmacists, and we know in rural areas where perhaps there is a monopoly situation that's a possibility. As members of the public, we're left sort of wondering when we see different parts of the industry pointing at each other as to where the villain might be if in fact there are increases.

I'm wondering whether you think the amendment—and I suspect you're asking for an amendment with respect to the transparency. Do you believe that that would correct any of those problems, and how would that assist in small-town Ontario or rural Ontario, where you have an independent who has to pay whatever they can individually negotiate with a drug manufacturer and is the only game in town and has no controls on the markup that they're putting in place?

Mr Dick Guest: Yes. What you're really asking then is will the small-town rural pharmacist be disadvantaged as opposed to a big city or a chain pharmacy.

Ms Lankin: The individuals purchasing the product

from that, yes.

Mr Guest: Or the individual who's purchasing it. Our goal is certainly not to disadvantage, from a pricing point of view, anybody whether you're in rural Ontario or whether you're in urban Ontario. The point about the breakdown of the costs would make that transparent to show that the cost would be very similar for the drug component, and then the other components would be costed appropriately.

Ms Lankin: So at least it would be transparent. The Chair: Thank you very much, Ms Lankin.

Ms Lankin: That's five minutes already? I have so many more questions.

The Chair: That's five minutes. It was a wonderful

long question.

Mr Tony Clement (Brampton South): Thank you very much for your comprehensive presentation and your suggestions. May I say, as I said last night to one of the presenters, that we are very much interested in particular amendments that are brought forward by deputants because, the way we see this process, it's an open process. There are possibilities of amendment. The bill is not written in stone. In fact, as we hear presentations, the wheels are working in our minds to actively consider amendments. So your presentation was very useful in that respect.

Just to springboard off something that Ms Lankin said,

are you subject to federal competition laws?

Mr Guest: Yes, we are.

Mr Clement: So there are laws prescribing against saying to one buyer that your price is this, and to another buyer, your price is that. You can't really do that. You have to have a price.

Mr McCool: We have to treat all buyers the same in terms of their scope and size, but you can't have different

prices to different payers.

Mr Clement: For different products? Or reflecting your costs, transportation costs, that sort of thing.

Mr McCool: Yes.

Mr Clement: But you can't just arbitrarily say, "Because you're Mr So-and-so from This Rural Area, even though our transportation costs are the same, we're going to charge you at a higher price because we don't like you."

Mr McCool: No.

Mr Clement: Let me just talk a bit more about that, because we also heard yesterday from I guess one of your competitors that in fact the way they saw the structure of

the pharmaceutical market is, you've got generics where the pressure is down in terms of prices, and you've got the brand names where we've got federal regulations which are in effect so that they saw, and I'm not trying to put you on the record in terms of your pricing strategies, that the pharmaceutical prices would either be flatlined or in some cases competitive pressure would drive them down through the change in the government policies proposed. Are you able to comment on that at all?

Mr McCool: We would see it the same way. The patented products are controlled by the prices review board, so that's pretty much established. There has been very little growth in the consumer price index in Canada, so the prices have been pretty much flat. In the multisource market, which is the generic market, far more competition could take place if it wasn't for the fact that, at least in Ontario, there has been a fixed price, and so our suspicion is, prices will probably come down, given

the increased competition.

Mr Clement: Let me jump in and ask my final question probably in the limited amount of time we have, but I'm in full agreement with you that we need a more integrated approach to health care delivery. But the question is, how do we get there from here? Who is the actor that can promote an integrated approach, because you have so many different actors in so many different communities. Would it be fair to say that the only actor possible, in order to help shape that in conjunction with the various actors in the community, would be the Minister of Health? That's the leadership you're looking for.

Mr McCool: Under the Canadian system, it's the

Minister of Health or the deputy minister.

Mr Clement: He needs those tools to do that, doesn't he?

Mr McCool: That's right.

Mrs Caplan: I have a question. The first one follows up on an erroneous perception that was left and that was that you have the same price for every purchaser no matter what their volume or anything. I just want you to clarify, you do offer different prices to different purchasers of your drugs, depending upon the volume of their purchase and other factors.

Mr McCool: That's correct.
Mrs Caplan: That's correct.
Mr McCool: That's right.

Mrs Caplan: Right, of course. I'm wondering, will you be negotiating a price for the ODB drugs with the minister?

Mr McCool: We don't anticipate that; we think that the minister will respect the price that the Patented Medicine Prices Review Board approves in Canada. We don't see the necessity to negotiate that price based on good cost-effectiveness criteria. We will price our products based on their value in the marketplace, and the body that scrutinizes that will be the PMPRB. We would expect all provinces in Canada to respect that federal legislative act.

Mrs Caplan: Have you had any indication from the minister that this is in fact the case, that he has no intention of negotiating on behalf of the ODB, given the fact that it's such a significant part of the Ontario

market?

Mr McCool: We have not talked to the minister about this. All we can do is read what is in the act, just like

probably you can.

Mrs Caplan: The other thing I'd like to clarify—and the parliamentary assistant is here today—is that it is the practice, Mr Chair, at the committee for the parliamentary assistant, who speaks on behalf of the ministry, to clarify what is in the bill.

Yesterday, the parliamentary assistant suggested, on the concerns you have around no substitution, there would be a procedure in place for the ministry to in fact pay for drugs where doctors have said that the brand-name product is the only appropriate product, and that is why I believe you probably said today that it would be difficult to gain access. My question really is for clarification from the parliamentary assistant. Do you still stand by those comments?

Interjection.

The Chair: Yes, it is acceptable practice that you

answer a question on behalf of the ministry.

Mrs Johns: I have to hear what she says I said again.
Mrs Caplan: What you said to Glaxo Wellcome yesterday was that there would be a procedure, a mechanism in place for anyone who required an alternative in a non-substitution segment, that they would be able to apply. If a doctor prescribed a drug that was considered a non-substitution drug, they could receive payment for the alternative drug through some mechanism in the ministry. Do you understand that?

Mrs Johns: No, but I don't think I said that. I'd have to see it in writing. If you could forward it to me, I'd be

happy to comment on that.

The Chair: Okay. Do you want to get back on to the

answer?

Mrs Johns: I'd like to see where she's quoting me from, the context.

The Chair: More important is, is the question—

Mrs Caplan: The question is, do you foresee a mechanism that will allow any relaxation to your nosubstitution rule that is written in the legislation?

Mrs Johns: No.

Mrs Caplan: Well, I would suggest that in fact that's not what you said yesterday to Glaxo Wellcome.

Mrs Johns: I said yesterday that-

The Chair: Okay, we don't have an argument—

Mrs Caplan: No, no, I'm not arguing. I just want to clarify it, because not only will it be difficult, as you have said; it will be impossible. Because the answer that we have from the ministry, and I'll quote from what will be on the record—it says here that there will be no mechanism for the ministry to pay for the additional cost of a no-substitution prescription. That's what this legislation says. That is contrary to what the parliamentary assistant said yesterday in response to Glaxo Wellcome.

I know that you monitor the hearings and that you'd want to know accurately what the legislation says. So that if you believe that there should be a mechanism, then you could propose an amendment to the minister to achieve what the parliamentary assistant said would be possible. Did you want to comment on that? Because I think that was probably your understanding from the presentation from Glaxo Wellcome.

Mr Chris Stockwell (Etobicoke West): Mr Chair, is it in order now for the member to start suggesting what—

The Chair: Let's-

Mr Stockwell: The question is contrary to what she said yesterday.

The Chair: The question has been asked to the presenters. We're here to get public input, not to argue among ourselves. The question will be answered by the people from Eli Lilly, please.

Mr McCool: We just think that under the present scheme, for a physician to get a certain product for a patient to go through the regulatory hurdles of calling to get approval, at the end of the day they get discouraged by that process and ultimately don't do it.

Mrs Caplan: Well, there's no-

The Chair: Thank you very much, Mrs Caplan. Your time has expired.

We appreciate your attendance at our meeting this

morning.

Mr McCool: Could I just have one clarification? The Chair: We've allotted everyone so much time.

Mr Curling: He wants a clarification.

Mrs Caplan: Let him ask his question, Mr Chair.

Mr McCool: I just wanted to clarify one point. I might have left the impression that we had multiple prices in Canada. Currently, we have one price to all customers in Canada, just to clarify that.

The Chair: Thank you very much. We appreciate your attendance this morning and your interest in our

process.

Ms Lankin: Mr Chair, if I may, I would like to move a motion. I have copies of it here if the clerk would like to circulate this. The motion reads as follows:

Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number

of spaces available;

I move that this committee recommends to the government House leader that when the House returns on January 29, 1996, that the order with respect to Bill 26 be amended and that the bill be returned to the standing committee on general government so that further public hearings can be arranged; and further, that this committee recommends to the government House leader, based on the submissions to the committee to date, that Bill 26 be separated into several bills to allow the public an opportunity to adequately analyse the bill.

Further, that this committee recommends that the three House leaders meet as soon as possible to discuss this

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The Chair: Thank you very much for the motion. I will reserve my decision on the admissibility of that motion until this afternoon.

Ms Lankin: I recognize that, given that we have had a question about the admissibility, you would have to rule on that. If the motion is in order, could you indicate when we would have an opportunity to debate this?

The Chair: I will advise on that this afternoon too. Mrs Caplan: Mr Chairman, could I speak to that? The Chair: Are you going to speak to the motion?

Mrs Caplan: No, not to the motion, but to the admissibility of the motion. I would suggest that the clerks have been working to—

The Chair: I would rather make the decision on the admissibility of it first; then we can talk about it.

Mrs Caplan: Because we believe this is an extremely important issue.

The Chair: I know you do and I said I would rule on it this afternoon. We're recessed until this afternoon.

The committee recessed from 1152 to 1302.

The Chair: Good afternoon, folks. Welcome to our committee. Prior to our break at lunchtime, Ms Lankin put forward a motion which I won't re-read at this point in time, but I will say my decision is that the motion is in order and I would ask for unanimous consent, out of respect for the presenters who are here, so that we don't infringe on their time, that we discuss this during our dinner break at 5 o'clock. Does everybody feel comfortable with that?

Ms Lankin: Absolutely, Mr Chair. The Chair: Okay, thank you.

CANADIAN GREY PANTHERS

The Chair: Our first group of presenters represents the Canadian Grey Panthers: Joe Moniz, Isobel Warren, Penny Gray and the Reverend Dr George McClintock. Welcome to our committee. You have a half-hour to use as you see fit. When we get around to questions, they will begin with the government. The floor is yours.

Dr Joe C. Moniz: First of all, I'd like to thank you all for inviting us here today. It's a pleasure and an honour to be here to address some very important issues.

I'd like to start off by saying that In the brief you have before you, we've summarized the recommendations briefly up front, prior to reading the body of the brief.

Firstly, we'd like to immediately implement a phar-

macy smart card program;

-Re-examine income levels for the proposed \$100 deductible:

-Undertake a province-wide medication education program for both the medical community and the public;

-Utilize electronic communications such as bulleting

boards and the Internet:

Re-examine costs, both financial and social, of hospital closures;

-Examine the role of nurse practitioners and regional health centres to deal with home care requirements;

—In general, adopt a proactive stance in promoting preventive rather than medicative health care, and this includes re-examining the funding of alternative therapy which has a proven track record;

-Initiate and maintain an ongoing consultation with seniors through focus groups and through Canadian Grey

Panther member surveys.

On the following page we briefly summarize the association. The Canadian Grey Panthers advocacy group is an organization that seeks to combine the wisdom of elders with the energies of youth to create a more humane and caring climate for seniors of today, tomorrow and of the future.

The uniqueness of the Grey Panthers, again, is the intergenerational approach. We're concerned about seniors today because we'll all be seniors tomorrow. It's of great concern to many of our members who are of the younger age category. They are concerned and they don't want seniors to be affected in any way.

The Canadian Grey Panthers are deeply concerned about the apparent erosion of health care for seniors and for all citizens of Ontario. As our population ages, we foresee the need for changes in health care delivery, for expansion of home care and home services and for increased nursing home care for frail seniors. We fear that current and upcoming cutbacks will create terrible hardships for seniors, depriving them of essential medicare and support, exposing them to suffering and deprivation that are not in keeping with a civilized society.

We urge the ministry to review any decision to reduce services to seniors and to act with caution in exposing our senior population, many of whom already live below the poverty line, to increased expense and risk.

We further urge the ministry to implement measures to promote a preventive approach to senior health care

rather than the present medicative one.

Our members feel a sense of betrayal. Many of our members see the current cutbacks as a breach of trust, an abrogation of the commitment made by our government to the welfare of seniors and the specific election promise that health care funding would not be touched.

Our members feel betrayed. Over decades they have contributed, through multiple tax layers and their own careful planning, to the financial stability of the province, believing that they were building for their own and their families' futures. Instead, they see the disintegration of social welfare programs to which they have contributed.

Seniors are concerned, indeed fearful, not only for their own present and future welfare but for that of their children and grandchildren. While acknowledging the urgent need to reduce government costs, the Canadian Grey Panthers suggest that this be achieved by controlling waste and duplication of services by increasing taxes for banks, large businesses and corporations and by stimulating the economy to create more jobs rather than by forcing more and more people into poverty.

Seniors and health care: Today's older seniors have been conditioned lifelong to accept, without question or challenge, their doctors' decisions on health matters. Unfortunately, most of today's doctors are inadequately trained in geriatric medicine, nor does their caseload permit them to assess adequately the patients' real problems and perhaps to recommend alternative therapies.

Sleeping pills are just an example. Research has proven that seniors require less sleep than their younger counterparts and that seniors' nervous systems retain hypnotic drugs longer than younger bodies, yet doctors continue to prescribe sleeping pills which may cause serious accidents and falls requiring costly medical attention. A very high percentage of senior hospital admissions is the result of drug overdoses.

Agism likewise takes its toll. Many health care professionals perceive seniors as irrelevant either in society or in their practice and resort to the quick-fix tranquilizer

or sleeping pill.

Dissatisfied with the assembly-line approach of many health care providers, seniors may go from doctor to doctor, seeking answers but receiving yet another prescription. The result is that our older population is

seriously overmedicated, some taking a dozen or more drugs of questionable value, and in some cases taking duplicate, generic and brand name, drugs.

Next, user fees: The prescription user fee system puts special hardship upon the senior population, many of whom are already in dire financial straits. Canadian Grey Panthers urge the ministry to re-examine the \$16,000 and \$24,000 income levels for the \$100 deductible amount and to readjust these levels to an amount that is a more realistic reflection of the poverty levels of this province's seniors, especially those living in large urban centres.

The Canadian Grey Panthers recommend that doctors and pharmacists be empowered to dispense long-term drug prescriptions required for chronic conditions to help

seniors avoid user and dispensary fees.

We turn now to the smart card alternative. The \$100 deductible would be more palatable if the resulting funds were put to effective use. The Canadian Grey Panthers recommend the immediate implementation of a pharmacy smart card, an electronic monitor of individual prescription drug use.

The universal use of this already developed system would eliminate double or triple prescriptions and thus much of the high cost associated with seniors overmedication: the cost of the drugs themselves, as well as overuse of hospital and medical facilities due to drugrelated illnesses, accidents or falls.

As well, the smart card would encourage users to patronize a single pharmacy, where the pharmacist can not only monitor medications but also provide advice on

Although there are costs involved in setting up the pharmacy smart card, it should result in both monetary savings and enhancement of the health of Ontario citizens of all ages.

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Educational programs: Canadian Grey Panthers recommend a province-wide educational program on senior health care and medications aimed at both seniors and the medical community to combat overmedication and the

creeping agism that contributes to it. Electronic communication: The Canadian Grey Panthers note the widespread availability of electronic communication systems, bulletin boards and the Internet, and urges the ministry to utilize these systems to communicate with seniors and/or health care providers. We acknowledge that the extreme elderly of our present society are not acquainted with today's technology, but the implementation of this recommendation now will ensure that future elders, already computer literate, will utilize the cost-effective means of communication.

Hospital closures: The Canadian Grey Panthers are deeply concerned about the possible closures of hospitals and other health care facilities. Again, we urge the ministry to re-examine these proposals which could well result in greater wastage and increased costs as well as depriving our communities of some accessible, specialized and highly prized facilities.

Reducing costs: What we want to promote here is a win-win situation where we can help you to save money and to reduce costs. We'd like to offer you some ideas on

where costs can be reduced.

The Canadian Grey Panthers urge that in lieu of penalizing seniors with user fees and reduced services. methods be developed to minimize the need for senior hospitalization and medication, while enhancing the quality of care. These include the following:

-Expanded home care and home care service programs, and renewed emphasis on the role of the nursepractitioner discipline, relieving pressure on hospitals and institutions and providing seniors with more security and

personalized care.

Development of regional health centres, which at present are stretched far beyond their limits. In rural areas especially, public health nurses carry huge caseloads that often require hours of travel daily and leave little time for patient assessment and emotional support.

-Enhancement of volunteer programs and education.

-Development of communications technology that allows seniors to communicate with their health care providers, including doctors, from their own homes. This would include a hotline for emergency response.

-Emphasis on home security devices that summon

assistance in the event of an emergency.

Continued inducements to encourage doctors to relocate to rural and small urban centres.

-Implementation of educational programs for both seniors and health care providers to overcome the assembly-line approach to health care and combat agism.

-Development of a preventive approach to medical

care rather than a drug-based one.

-In particular, the Canadian Grey Panthers urge the ministry to consult with seniors through focus groups and surveys before implementing these dangerous and indeed destructive cuts.

Canadian Grey Panthers are willing to cooperate with the ministry in communicating with seniors through surveys of our entire membership as well as conducting focus groups to assess realistically both attitudes of seniors and the impact of proposed changes upon their

And now a look to the future: The Canadian population is aging. Today's healthier elders are living longer, and as they enter their later years they will require more services, care and medical attention. While demand for subsidized retirement homes may decrease, the need for specialized nursing homes for frail elderly people is likely to increase.

Canadian Grey Panthers strongly urge the ministry to look to the future and to take a proactive stance in expanding services to seniors, especially those outside of institutions ie, home care and other home-based services, in order to be prepared for the age wave of the future.

The Chair: Thank you very much. We've got about 15 minutes left in total for questions, beginning with five minutes for the government; Mrs Ecker.

Mrs Ecker: I thank you very much for coming today and thank you for an excellent presentation. You've made some points that I think are quite good.

The government would certainly support your recommendations on the need for a smart card in the health care system. I think we'd also support your concerns over the problem of overmedication of seniors. It's one of the reasons why we have a pharmacy computer system which tracks the prescriptions on ODB to try and address that. We recognize that we need to continue to do more along those lines, and welcome your suggestions on this.

What I would like to do is ask you a little bit about the Ontario drug benefit program. You made the point that the \$100 deductible, you'd like to see that put to good use. I think probably as you're very familiar with, the costs of the drug program have tripled over the last several years and a couple of previous governments have tried to wrestle with how to address that.

One of the tacks that's been taken in Ontario and other provinces is to delist drugs. Other provinces have chosen to introduce minimum copayments. Ontario felt that we wanted to take the copayment route, that that was better than completely delisting drugs which might be very, very badly needed by some seniors, and it also gave us an opportunity to extend drug benefits to 140,000 low-income individuals.

So I just wondered if you could have some comments about what might be the best way to address those costs, given that some provinces have wandered down the delisting route, some have taken copayment, and we had sort of thought copayment might be the best way to do it because we didn't like the concept of delisting. So I wonder if there are any comments on that.

Dr Moniz: Actually, that point was raised. We had a collecting of members, about 120 I believe it was, and we asked them that same question. Again, no particular amount was raised, but it was funny how they all said it was more of a question of the \$16,000 issue versus the \$24,000 issue. No amount was actually stressed, \$100; it was the fact that, why \$16,000? That was more in response to your question, because we asked them similarly what they thought. You're talking about the copayment amount, or the deductible of \$100?

Mrs Ecker: Well, there are two things. I guess, first of all, I was talking about sort of the concept, because there's kind of two ways to go at it. One is to delist drugs off the formulary, which we thought was not appropriate; and the other one is to try and implement some form of copayment system, which has also been tried and is also happening in other provinces and seems to be working, as I gather, in some of the other province.

Dr Moniz: It was funny that the point raised was that—there was no negative feeling about the payment itself, but again: "Why is it that last year I received so many drugs, this particular drug, for free? Now I have to pay for this particular drug." So there is a negative feeling among the membership about that.

Mrs Ecker: Perhaps if we were able to communicate better, that this is a way to preserve the drugs on the system they have access to?

Dr Moniz: That's right.

Mrs Ecker: Okay. Thank you, a good point. You'd mentioned about wanting to shift more of the resources from the health system into some of—I think it was community based and geriatric care—

Dr Moniz: Right.

Mrs Ecker: —and the minister has certainly acknowledged that we need to do more on geriatric care.

I guess the concern is that again the last three governments had talked about shifting from out of the acute care hospital-based, get out of that and take the resource and put it in other areas; and none of us have been actually do that because we haven't had the authority. I guess, how do we take that resource from hospitals now and acute care and shift it without some change in the legislation and authority that gives the ministry the ability to do that?

Dr Moniz: I'm a gerontologist. I graduated from McMaster University, and that was one of the key questions: How do we do it? But the question is, it's needed. It is very much necessary, because seniors will want to stay within their own homes. They don't want to go into institutions. They don't want to go into chronic care units. They just do not want it.

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In response to your question, it's a question we've been asking ourselves: How do we do it? Really, it's difficult. It has to be done. That's the key thing here. And how we do it? We have our research department that we can provide you on how we do it. But the point is it's needed

Mrs Lyn McLeod (Leader of the Opposition): I'll lead off the questions, then. You've very clearly pointed out concerns with overmedication and sometimes inappropriate medication of seniors. I wonder though, do you think that charging seniors for their drugs is a deterrent to that and a way of coping with that, or would it be more effective to look at better pharmaceutical management of seniors, both through geriatric training of physicians and also working with pharmacists? I just wonder quite frankly why the government would be suggesting that the way that you deal with the real concern about appropriate medication is to charge seniors, as if somehow seniors were going to have to pay the cost of their illness.

Ms Isobel Warren: If I could comment on that. I think that in fact many seniors will cease to take needed drugs as a result of that user fee, especially those in the lower income levels. We firmly believe that the proper route to follow is to provide a different kind of delivery and to provide monitoring of the drugs that are being taken and to reduce the costs of both hospitals and drug plans by eliminating unnecessary drug use. So our feeling is that it will certainly reduce the amount of drugs that seniors are taking but it may not be the right kind of reduction and in the right area at all.

Mrs McLeod: It sometimes surprises me that I think we sometimes forget why seniors are having their drugs paid for by government, and it's in large part because seniors are on fixed incomes and because for the realities of aging they are likely to experience more medical difficulties and therefore the cost of their drugs can become prohibitive for people on fixed incomes. Even though you're trying to deal with something which would be more fair by looking at the \$100 deductible being at a higher level of income, could you make a case that seniors in fact should not have to pay for their drugs?

Ms Warren: Certainly seniors in the lower-income groups should not have to pay for their drugs; \$16,000 is the low-income cutoff in urban areas; \$24,000 is the low-income cutoff for couples. That's a serious hardship for people in that income range to afford their drugs. Now,

as to whether it is time to reassess the free access to drugs for people in higher-income ranges is another matter, but our primary concern right here and right now is that we see especially low-income seniors being

subjected to real hardship right away.

Ms Castrilli: I want to thank you for this. It's a very thoughtful presentation, given the very stringent time limits which you must have had. I wondered, because of that, if you might expound on something that's not in your paper, and I expect you haven't dealt with it because you haven't had the time, and that's the whole notion of confidentiality of records. Seniors do have a number of health concerns. Those have been documented. Bill 26 provides for very far-sweeping provisions which would allow that information to be disseminated quite freely and with very little liability. Is that something that's of concern to you?

Rev Dr George McClintock: Yes, this is one of the aspects that is of concern to all who are seniors and all who work with seniors, I believe, that the patient-doctor relationship and all other confidential relationships should somehow be protected in whatever electronic support systems may be used. It all goes with the importance of doing what we can to maintain the dignity of the individ-

ual and to protect their individual rights.

There was one point I wanted to make also in response to Mrs Ecker's question and that goes to the matter of reducing drug costs. One of the possibilities would be to re-examine the scope of what's allowed under OHIP and the drug benefit plan and see where alternative therapies may well prove much more economical and beneficial to the seniors. As it is, I think one of the reasons there tends to be an overuse of drugs is that it's an attempt by the medical profession to provide some comfort or relief to pain that might be better handled by a good chiropractitioner or some of the other alternative therapies. So we would suggest that this could well be an area that would reduce drug costs considerably.

Ms Lankin: I'm glad that you made that last point, because I was a bit disturbed when Ms Ecker said, "There's one of two ways to go about it: you either delist or you put the copayment in." I had an opportunity to examine that and felt it would be important to proceed along drug education and prescribing guidelines. In fact, we were able to get the first clinical guidelines on anti-infectives in place and work is going on for more which will be available for this government to implement. I think that is an appropriate way to proceed before you

look at something like copayments.

You've spoken about the financial hardship with respect to the level of low-income cutoff for deductibles and the problem that will cause people with respect to having to make perhaps inappropriate choices about medications that they take. I'm wondering if you've looked at the actual \$2-per-prescription user fee for those below \$16,000, particularly if someone has multiple medication needs. Have you had an opportunity to examine any particular cases of any of your members or what that might mean for some seniors? Is it similar to your arguments about the deductible?

Dr Moniz: Yes, very much so. They're living on tight enough incomes now. They just cannot, because some are

taking—I know of one case—22 different drugs, and they just can't cope. They just cannot afford it. That was raised continuously through that focus group that we held.

Ms Lankin: And those prescriptions might be on a monthly or a three-monthly basis for example.

Dr Moniz: On a monthly basis. Ms Lankin: My goodness.

Just to let you know, there were two or three representations yesterday from people who work in the mental health field who indicated that for people who are required to take medications for significant mental health problems—and a number of those people would be now living in the community but unable to work; they would be in very low-income situations, perhaps on social assistance and recipients of ODB assistance—compliance with their medication program was really put at risk by this user fee. That just opens the door for people reentering the hospital system.

Dr Moniz: Absolutely.

Ms Lankin: One of the other reasons, to add to Mrs McLeod's comments, that the drug program has been established as it has for seniors is that using these medications can help seniors live healthily outside of institutional settings as well, and there's a cost inherent in both health and, for this government's concern, the fiscal bottom line if they don't take those medications.

Dr Moniz: That's right.

Ms Lankin: I just wanted to also comment on your concern around hospital closures and the need to ensure that there's a reinvestment in the community. I don't know if you've looked through that section of the bill, but the powers are entirely left to the minister to decide. There's no spelling out what the role of the commission is, no relationship to the district health councils or local planning. There's nothing that has proved the government's statement that they need these powers. They refer to the Doctors Hospital case, but that was one hospital for fiscal reasons, not Metro DHC health restructuring.

I would point out to you that in Windsor, where there has been a restructuring process, where there had been a government commitment for the dollars saved in the hospital to go into the community, this government has withdrawn that commitment for the dollars to be reinvested in the community. So I think your concerns are warranted.

Would you like to see amendments to the legislation in this area around the minister's powers and do you have

any recommendations for the committee?

Dr Moniz: In answer to your first question, yes, amendments. We'd like to be given the opportunity to generate some amendments and present to you, but because of the shortness of putting this together—yes, we do agree and yes, we would like to recommend. That's why we're here, to help you in terms of developing the right recommendations.

The Chair: I'm sorry, the time allotted is up. If you do have some further ideas that you would like to share with the committee, we'd be only too happy to have you submit those to the clerk's office or to the ministry and we'd be happy to look at those. Thank you very much for

your interest in our process and for your presentation.

Are the people from the Shared Health Services Network here? No. We will recess for a few minutes until they appear, say, 15 minutes.

The committee recessed from 1331 to 1427.

ONTARIO ASSOCIATION OF RADIOLOGISTS

The Chair: Our next presenters are here from the Ontario Association of Radiologists, Dr Murray Miller and Dr Isadore Czosniak. Welcome, gentlemen. We appreciate you being here this afternoon. You have half an hour to use as you see fit. Any time you allow for questions will be shared evenly and would begin with the Liberal Party. So the floor is yours, gentlemen.

Dr Murray Miller: I'm Dr Murray Miller. Beside me is Dr Isadore Czosniak. We're here today as representatives of the Ontario Association of Radiologists. At the outset, I'd like to say that we're grateful to have this opportunity to address you today on Bill 26. We have many comments, some positive, some negative, but all of which we trust you will find constructive.

Just as a way of background, the Ontario Association of Radiologists is a voluntary professional organization. We represent approximately 700 diagnostic imaging specialists in Ontario. We are here in the capacity of the executive of the Ontario Association of Radiologists. In addition, both Dr Czosniak and I sit on the College of Physicians and Surgeons' quality management task force, the OMA breast cancer committee, the Ministry of Health's advisory committee on the Healing Arts Radiation Protection Commission, the so-called HARP commission, the ICES committee on breast cancer screening guidelines and the committee advising the Ministry of Health and the Ontario Hospital Association on the implementation of magnetic resonance imaging in Ontario.

Over the past 30 years, 90% of the progress in medicine has been the result of improvements in diagnostic imaging. The evolution of outpatient care and decreased length of stay in hospitals are largely due to advances in diagnostic imaging and interventional radiology. For example, CAT scanning has completely eliminated the need for exploratory surgery, mammography has resulted in decreased mortality from breast cancer and radiologists can now treat abscesses and perform biopsies on an outpatient basis, obviating the need for more expensive and riskier surgical procedures, which tend to be associated with prolonged lengths of stay in hospitals.

At the outset, we would like to state that the break-down of relations between the government and the Ontario Medical Association is a dangerous and unwelcome development to seasoned observers of health care in Ontario. It is unacceptable and unhelpful for a provincial government to unilaterally use its legislative powers to sideline a legitimate organization which not only represents 23,000 physicians but is one of the province's key players in shaping policy and delivery of medical services to the patients of this province. Our experience has clearly demonstrated that change will not occur if the major players are prevented from participating in the process. We would ask the government to reconsider its approach

and take a fresh approach in building a constructive relationship with the Ontario Medical Association.

We have followed with great interest the issues leading up to the tabling of the legislation and would like to address some of the issues raised by the Minister of Health in a November 22 letter to the OMA and in his opening remarks to this committee. The minister identified the following concerns and policy priorities:

- (1) Improved supply and distribution of physicians.
- (2) Better management of utilization.(3) Sustaining the present level of care.(4) Meeting changing health care needs.
- (5) Improving efficiency and accountability.

We would like to address each of these issues and explain how the radiologists of Ontario have met and will continue to meet the challenges that face us today.

First of all, with regard to improved supply and distribution of physicians, we appreciate the concern of the minister regarding the supply of physicians in Ontario. However, we must point out that there is an appropriate supply of radiologists in the province. Every area of Ontario is currently served by radiologists.

The Ontario Association of Radiologists is active all across Ontario. When we are made aware of a demand for radiology services, we have accommodated the location by acting as a clearing house and assisting in arrangements. For example, there are formal arrangements between southern and northern Ontario groups of radiologists which provide cross-coverage expertise which would otherwise be unavailable locally. As a consequence of our program, some of the radiologists have decided to relocate permanently to northern communities.

The OAR is well into completing a comprehensive human resources plan in association with the university teaching programs to ensure that the future supply meets the needs into the next century.

In terms of better management of utilization, we sat before a similar committee in 1989, the social development committee. At that point in our deputation we proposed an eight-point plan. We feel that it is as relevant today as it was when it was first proposed. It should be noted that many of the points that were brought forward were to specifically address the issue of appropriate utilization. Since October 1989, we have actively pursued elements of our eight-point plan by undertaking some of the following initiatives:

We have supported the development of the Health Arts Radiation Protection Act and its evolution.

We've been involved in initiatives in quality management and continuous quality improvement. As a matter of fact, the majority of the authors of the national Quality Management Manual for Diagnostic Imaging are Ontario radiologists.

Initiatives to provide evidence-based information and criteria for the use of radio-opaque contrast media have been published and accepted by the Ontario Hospital Association and the Ministry of Health.

We have had initiatives for the development of a provincial MRI program with which we've had great cooperation from the Ministry of Health.

We have been active in standards development, both on a national and international basis, and the standards are now formally part of the Clinical Practice Parameters and Facility Standards of the College of Physicians and Surgeons of Ontario.

Ontario radiologists have been actively involved and continue to be actively involved in the assessment program for independent health facilities in cooperation with both the Ministry of Health and the College of Physicians

and Surgeons.

There are current developments in evidence-based appropriateness guidelines for diagnostic imaging which are being undertaken by Ontario radiologists in conjunction with the college.

We continue to be actively involved in health research

with regard to utilization and outcome.

We feel that Ontario radiologists have accepted the challenge to promote the rational cost-effective use of diagnostic imaging, and we can assure you that we will continue to do so.

With regard to sustaining the present level of care, it's quite clear that we've been living under constraints for the past number of years, but despite these constraints the radiologists have managed to introduce new techniques and skills, some of which we've mentioned previously. These have translated into cost savings to the health care system, specifically by reducing length of stay and other accomplishments.

We are in agreement with the minister's statement that investment in technology is a very cost-effective way of extracting greater value from today's health care system.

With regard to meeting changing health care needs, the diagnostic demands of an aging population are clearly more intensive. Radiologists are the key physicians in deciding the appropriate use of medical technology for an elderly population. Other examples include both cancer and cardiovascular treatments which were raised by the minister as areas of concern. It must be stressed that these treatments are always preceded by appropriate diagnostic testing. In the absence of availability of the diagnostic testing, treatment is ultimately delayed.

In terms of improving efficiency and accountability: In order to ensure optimal and appropriate utilization of imaging technology, it is our assertion, supported by the accompanying brief which you have from the US General Accounting Office, that imaging is best done by imaging physicians. The US government study confirmed that imaging physicians are by far the most cost-effective

managers of imaging equipment.

Now I'd like to make a few comments about the proposed amendments to the Independent Health Facilities Act.

Radiologists are uniquely affected by Bill 26 because our members are intimately involved with independent health facilities and with hospitals.

As members of this committee are aware, radiologists have been instrumental in assisting in the development of regulations in the existing Independent Health Facilities Act. Many of the changes proposed in Bill 26 currently exist as ministry policies and now will be brought into the act in a more formal way. Radiologists have worked

closely with ministry officials in the development of these policies over the past six years.

Specifically with regard to some of the proposed amendments, I'd like to make the following comments.

We have some specific concerns about revocation of an IHF licence. Under the existing Independent Health Facilities Act, the minister has the right to refuse an IHF licence only at the time of renewal. The position of the government and ministry officials has always been that renewal will only be denied on quality assurance issues. We urge that this be retained and defined as such in the proposed legislation. Radiologists have no objection whatsoever to the revocation of an IHF licence when there are patients' care and quality concerns. We strongly support the College of Physicians and Surgeons in their ground-breaking activities in the field of quality management.

Therefore, we urge that the committee put forth amendments that IHF licence revocation be restricted on the grounds of quality issues, whether it be at the time of renewal or any other time during the term of licence.

Similarly, for removal of services in an IHF, we feel that the same standards should apply when specific services are removed and the terms of a licence are altered. They should only be done for quality issues.

With regard to the clause on specific requests for proposals, the proposed amendment provides the Minister of Health with the power to issue a specific request for proposals, which would allow the minister to select a party to provide services and to provide that party with one or more licences. It is our concern that this provision is open-ended and creates the potential for significant mischief. A situation could arise where a well established IHF clinic which has been serving a community of patients for many years is suddenly faced with the fact that the ministry has now awarded another licence which affects the viability of the existing clinic. This would in fact run counter to the minister's concern about appropriate availability of services.

We propose an amendment that such provisions should be tightly defined and provide preference to existing IHF holders, particularly those that are recognized as high quality facilities owned and operated by the radiologists

who are currently in practice in the area.

With regard to due process, the proposed amendments remove the due process rights that are currently contained in the Independent Health Facilities Act and in all other health care statutes. This departure seems to be the trademark of Bill 26. The serious erosion of due process rights, a cornerstone of our legal system, will not be available to physicians operating under the Independent Health Facilities Act. To maintain high quality imaging equipment, independent health facilities require a stable licensing environment. Investment in such equipment is extremely difficult in the face of the threat of expropriation without compensation. The average cost of equipment in an independent health facility runs in the neighbourhood of \$500,000 to \$1.5 million. It is difficult to imagine how one could make such a financial commitment with the possibility of losing a licence with virtually no notice. The removal of due process incorrectly suggests that the quality assurance program, which is run by

the College of Physicians and Surgeons, has not worked even though it is the most stringent in all of North America. The government has greatly amplified the legislative authority and discretion extended to both elected and unelected officials. We fear that the openended nature of this expansion of powers leaves the door open to abuse in the future with little or no appeal provisions for the affected parties. The government must recognize from their six-year experience with radiologists that the Independent Health Facilities Act can be made to work successfully, and the inclusion of due process rights is a necessary and reasonable component to maintain balance.

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We therefore propose that the committee consider an amendment which will provide the necessary stability and encourage investment in high-quality care. We further urge an appeals process consistent with the present legislation, along with a longer notice period, be provided.

With regard to removal of Canadian preference, the government's proposal to remove the preference for Canadian applicants seeking a new independent health facility licence opens the way for large American entities to apply to replace existing local Ontario expertise. It is questionable as to how a government would be able to enforce the same level of quality assurance provisions on a foreign-owned and non-physician body. It is our experience, both Dr Czosniak and I, with the College of Physicians and Surgeons, that it cannot enforce quality provisions on non-physicians.

The lack of the college's ability to discipline non-physicians has been a problem in the past. It is not unique to expect that the ownership of professional practices is limited to Canadian professionals. In virtually every other profession, whether it is legal, accounting, architectural or many others, the practice must be owned by a Canadian-based practitioner. This kind of limitation is seen even in non-professional areas such as publishing and broadcasting. In an area as important as the public health, coupled with the demand for increased fiscal restraint, it is essential that ownership and accountability remain in the hands of physicians licensed to practise in Ontario. Therefore, we recommend that the ownership of independent health facilities be restricted to Ontario licensed physicians.

Now I'd like to turn to the proposed amendments to the Public Hospitals Act. We preface our comments about the Public Hospitals Act by advising the committee of the close working relationship between the Ontario Association of Radiologists and the Ontario Hospital Association. We have worked closely with the OHA on matters of mutual concern and have even acted in the past as mediators between the OMA and the OHA. We look forward to this continued cooperative relationship.

The Public Hospitals Act amendments allow a hospital board to (a) refuse applications for reappointments, new appointments and change in hospital privileges; (b) to revoke appointments; and (c) to cancel or substantially alter privileges. No hearing is required, and the existing statutory safeguards contained in section 37, paragraphs (3) to (7), and sections 38 to 43, do not apply. The

legislation makes a dangerous break with the past by providing immunity to the hospital and the board. This has been widely misinterpreted as applying only in the event of a hospital closure. In fact, we have received an opinion that this applies to all public hospitals.

The Ontario Association of Radiologists is deeply concerned that the delicate balance between hospitals and physicians who work in those hospitals would be strongly weighted on the side of hospital administrators and the boards. While this will not result in a discontinuation of the mutual respect between hospital and management and physicians in all cases, there is enough evidence at the moment that the cooperative agreements of the past have broken down due to increasing fiscal pressures on hospital managers. There have been several cases where hospital administrators have attempted to breach the Canada Health Act and the College of Physicians and Surgeons' code of ethics by having physicians split their fees with the hospital. Therefore, the association urges the committee to consider that these extraordinary powers should only be available in a situation where a hospital

In conclusion, Dr Czosniak and I would like to take the opportunity to thank you, on behalf of the association, for permitting us to address the committee on these important issues. Over the past six years, the radiologists of Ontario have dealt with these types of issues, which the minister is now proposing for the broader medical community. It is important to be cognizant of some of the lessons learned over that period.

First of all, the effective implementation of any statute dealing with medical care requires close cooperation and a strong working relationship between physicians and the Ministry of Health. I am proud to say that our association has developed such relationships over the past six years. We would urge that the government develop similar relationships with the OMA based on a shared vision of medical care in Ontario.

With regard to quality, we feel very strongly that maintenance of quality care must be paramount. The provision of quality care can be accomplished even in the face of fiscal restraint as demonstrated by the quality management program of the College of Physicians and Surgeons with regard to independent health facilities.

Once again, I must remind the committee that we have been leaders in the field in North America and this has occurred because of active participation and cooperation with Ontario radiologists.

The final point I'd like to make is that the present Independent Health Facilities Act and Public Hospitals Act have served the patients of Ontario well. The impact of the proposed changes on quality and accessibility must be closely assessed prior to enactment.

We look forward to continuing our input on Bill 26 and are willing and able to assist in drafting amendments and regulations. We believe that our cooperative relationship and ongoing communication between ourselves and the Ministry of Health should be a model for others. Thank you very much.

The Chair: Thank you, doctor. My apologies for mispronouncing Dr Czosniak's name. I had the wrong spelling up here. We've got about 12 minutes left for

questioning, four minutes per party, beginning with Mrs

McLeod, the Liberal Party.

Mrs McLeod: On page 5, you deal with your concerns around the independent health facilities and I'm appreciative of the concerns you raise. I guess I'd like to ask you to just maybe speculate, if you will, for a moment on what underlies your concerns. Why do you think the government would want such an open-ended power to make decisions about revoking a licence for other than quality reasons? When might the minister use that kind of a power? What is it that as radiologists you might be afraid of happening in the future?

Dr Miller: I think our primary concern is not how things might be applied, but the fact that they can be applied. Once again, when we look at an independent health facility where we're being called upon to make a significant dollar investment, it's always a concern that unless there is some stability—I mean I'm quite confident that I can say I can provide high-quality imaging but, on the other hand, if there's a risk that for no stated reason a licence can be revoked, then the concern is why would anyone want to put that investment in to maintain the quality because you can guarantee maintenance of quality, but unless there's a corresponding guarantee that the licence and the ability to practise will be there, then people are going to be loath to make the investment to start with.

Mrs McLeod: On another issue, because you've raised a number of issues of concern in your paper, do you know what the retention rate is for Ontario graduates in radiology now? Do a large percentage of them stay

and practise in Ontario?

Dr Miller: It's a somewhat difficult question to answer because the way a radiology residency is structured, it's a four-year residency. Historically, many people have gone on to do fellowships and I believe our numbers indicate this year virtually everyone is doing a fellowship, so that's additional training. What happens after the fourth year is some people do stay here to do the additional training, but there is a limited number of slots so people tend to go all over North America. We do have a widely known reputation, the Ontario radiologists. After people have left the province to do additional training, it's hard to track where they end up, but by and large there has been significant retention of radiologists within Ontario.

Mrs McLeod: Because I was struck by the statement you make that we do have an adequate supply and the distribution is not a problem in terms of radiology because of the work that's been done. I guess I'm wondering what effect you think it might have if there is the coercive use of billing numbers in order to deal with the distribution problem, whether that will affect the retention rate of radiologists in the province.

Dr Miller: I think it's clear that people are concerned and certainly there is availability of positions across the border and in other provinces and ultimately it's up to everyone to make a decision as to where they want to

practise.

Ms Castrilli: I have two quick questions. The first is, the Ontario Medical Association appeared before us yesterday and stated quite clearly that they were not

consulted by the government prior to the legislation being introduced. I wondered if that is also the case with your association.

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Dr Miller: In general, we wouldn't expect to be consulted before legislation is introduced, but it's really been our trademark in the last six years, since the introduction of the Independent Health Facilities Act, that we provide our input whether we're consulted or not. I don't anticipate it's going to be any different with this.

Ms Castrilli: All right. The second question is, are you troubled by the fact that this legislation deals with so many things? You've dealt with your particular area very clearly and very cogently, and I thank you for the presentation, but this legislation also deals with the Mining Act, with municipalities, with changing the definition of milk in some instances. Would you be in favour of splitting the legislation in order to give a more in-depth look at your particular concerns?

Dr Miller: I think we can address our concerns, can bring them forth to the ministry. I'm not sure in what mechanism it has to be addressed, but clearly, as long as our concerns are addressed, I think we'll be happy. We

don't have a position on milk.

Ms Lankin: I think most people in the province don't even know that milk is referred to in this omnibus bill or

what's happening with that.

The bottom line is that you're looking for amendments and you think there are amendments that will be necessary in order for this act to treat your profession fairly.

Dr Miller: Yes.

Ms Lankin: Just to let you know, in terms of the time available as it's currently scheduled, the week of January 22 is available for the committee that is the other half, which is sitting over in another room dealing with all of the other bills—Municipal Act, Mining Act, Milk Act etc—and this committee, which has been dealing with all the Health bills, to come together and to do a clause-by-clause, one clause at a time, through this thick act and to deal with government-proposed amendments and amendments proposed by the two opposition parties. So number one will be to convince the government to support your amendments and number two is to hope that we get that far as we go through it in that week in order for them to be dealt with.

I think that you raise some very important concerns. I want to speak first of all to the issue you raised on the Public Hospitals Act. The parliamentary assistant to the Minister of Health yesterday told the OMA that it shouldn't worry about the fact that doctors having their privileges revoked would have no appeals because it was only in the situation of closures and wasn't that appropriate? In fact, that's an incorrect interpretation of the legislation. I think yours is correct.

If you look at clause 32(1)(u), it gives the same powers that the board has to revoke privileges when there's closure. It says that there can be regulations set out "providing that a board may exercise the powers set out in subsection 44(1) under conditions other than ceasing to operate as a public hospital" and providing that all of the appeal sections don't apply.

For your profession, when the alternative to hospital privileges and practising has been structured, by and large in this province, to be through an independent health facility and with the restrictions on public tender, for example, for new licences in independent health facilities, what does this mean for a physician who could lose their hospital privileges, have no right to appeal and no ability to bid on an open public tender for a licence for an independent health facility?

Dr Miller: I think that there are a number of issues there. Clearly, when a hospital closes people are going to have problems going forward, because they're no longer going to have positions there. My anticipation is that no matter what happens in terms of hospital closures or changes in independent health facilities, the patients of Ontario are going to need imaging, and given that we're adequately served today, I don't anticipate that there's going to be a large workload reduction.

On the other hand, we are concerned about the balance of power between hospitals and physicians who work in hospitals, and we do feel very strongly that the present structure has served hospitals, patients and physicians well. Again, we'd urge that the committee recommend that the present structure be maintained.

The Chair: Mrs Johns, you have a point of order? Mrs Johns: Yes. I didn't speak to the OMA yesterday, so the parliamentary assistant couldn't have said that.

Ms Lankin: Perhaps it wasn't the OMA. It was one of the physician groups that was here.

Mrs Johns: I think we should make sure that we get the correct person and the correct comment before we say it out loud at this—

Ms Lankin: The comment's correct; it may have been the wrong group. My apologies.

The Chair: The government, Mrs Johns.

Mrs Johns: I'd like to thank you for being here. We've heard from a number of radiologists over the last three days and we appreciate all the input we're getting from you. Thank you very much.

One of the things I wanted to comment on when you're talking about your improved supply and distribution of physicians is that I was pleasantly surprised that the radiologists are handling all of Ontario. As you may or may not know about me, I come from rural Ontario, and we are an area underserviced by doctors. In effect, there are 70 communities like mine in Ontario that lack basic physician services, and it's an area of very high importance to this government. We've had this problem for 26 years and politicians of all stripes have been unable to solve that, so it's interesting that the radiologists have solved it by themselves. I want to look into that after, and I appreciate that comment.

I have a couple of questions about IHF, if I might. One of your proposals is, "Therefore, we recommend that ownership of IHF be restricted to Ontario licensed physicians." There's some controversy about that recommendation. I think the college of physicians has looked at it long and hard as a result of conflict of interest and self-referrals of doctors to other services. Can you comment on that a little?

Dr Miller: I'll let Dr Czosniak comment on the self-referral, but I would like to make one comment and I'm glad you raised the issue. One of the problems the college has had, and I'm aware of it because I sit on the committee, is that the college fundamentally can't discipline someone who's not a physician.

I'll a relate a circumstance in Texas last year. Some places opened to do entertainment ultrasound; in other words, pregnant women would come, they'd take a video of the ultrasound and send it home with the mother for a fee of \$50 or whatever it was. The FDA moved in and shut those places down, on the basis that they were not legally allowed to operate imaging equipment because they weren't certified as licensed practitioners by any body in the United States. They were simply there for entertainment purposes.

If the same thing happens in Ontario today, no one has the power to go in and say, "Cease operation." There's no power provided by the health protection branch federally and the College of Physicians and Surgeons has absolutely no jurisdiction unless myself or Dr Czosniak or another physician does it. But if some non-physician goes ahead and purchases equipment which is readily available, there is no body in this province which has the jurisdiction to go in and say, "You cannot operate this."

To me, that's astounding. It's beyond comprehension that a tightly regulated group that trained for 15 years of postgraduate training can't operate the equipment, but someone with no training whatsoever can operate it, unfettered by any regulation or law.

I don't know whether that will necessarily be encompassed in this, but that would be something you people could consider encompassing in it, saying that imaging equipment has to be operated by imaging physicians. I think it would be a relatively simple amendment that would allow us to give the same protection that people in the United States have.

I'll let Dr Czosniak address the self-referral issue.

The Chair: Doctors, we're out of time. Is the self-referral thing a quick answer?

Dr Isadore Czosniak: I'll try to give a quick answer. The brief we gave you from the General Accounting Office in the United States outlines the problem in the US, where there is a major problem with self-referral, and several states have enacted legislation, in fact 14 of them ranging all the way from Maine to California.

The problem is that in Canada there is not a lot of information. I've seen information coming from ICES—that's the Institute for Clinical Evaluative Sciences, at Sunnybrook—on this point. I think we're only seeing the tip of the iceberg and I think there is a problem, as some of the studies from ICES have shown. I do think it's a problem, and in the financial circumstances we're in now, it's a problem we should be addressing.

The Chair: If you have any input you want to share with us about how that might be addressed, it would be helpful and we would appreciate receiving that. Thank you very much, doctors, for your time and your interest in our process.

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FEMINIST ALLIANCE ON NEW REPRODUCTIVE AND GENETIC TECHNOLOGIES

The Chair: The next group is the Feminist Alliance on New Reproductive and Genetic Technologies, represented by Fiona Miller and Melanie Rock. Good afternoon, ladies, and welcome to our committee. We appreciate your attendance here this afternoon. You have 30

minutes to use as you see fit.

Ms Melanie Rock: Thank you very much. We're very pleased to be here today. It's very important, we feel, for members of the government, as well as for representatives of other political parties and the broader public, really, to have an opportunity to discuss these very important issues, and not exclusively with professional bodies, but with representatives from the community of women who stand to be very profoundly affected by some of the issues and some of the changes that are being proposed through this legislation.

To put the broader implications of Bill 26 is really our purpose here today, and to discuss the implications for the determinants of health and wellbeing for women, including poverty, including isolation, including access to appropriate health and related social services. This is an important issue, and our attendance here today is important to us, because it represents an opportunity to participate in a democratized decision-making process about health and wellbeing issues that are not just economic issues really social issues. So the two are very closely tied together.

Our group has been working for a number of years in the feminist community, both as individuals and as a collective, so we're very grateful to have this opportunity

to speak with you today.

Fiona will basically walk through the brief that we've prepared, and we're very much looking forward to a

dialogue at the end of the discussion period.

Ms Fiona Miller: Hi. First of all, let me just say what I'm going to do in the 15 minutes of presentation. We want to raise issues related to this brief in two ways. First is an issue of democracy, which I think is something that many groups have been raising, particularly unions. The second issue that we want to frame is the issue of women's health, and we really need to broaden our understanding of what we're talking about there.

First of all, who are we? We're the Feminist Alliance.

It's a women's collective based in Toronto.

We're a member group of NAC, the National Action Committee on the Status of Women, and we work in coalition with many other organizations concerned with the environment, social justice, animal rights, food policy, women's rights and women's health.

We engage in many activities, many educationals, arranging workshops, lectures, but also we seek to contribute to policy developments, to meet with governments and to contribute to democratizing the policy-

making process.

We're women concerned with women's health in general, but specifically we have very particular concerns about the new reproductive, genetic and bio-technologies. We do think that Bill 26 has ramifications for all of these things.

Part one: Let's talk about the issue of democracy. As many briefs have already put out or outlined, Bill 26 does gather extensive powers into the hands of government ministers and the Ontario cabinet to make decisions affecting the delivery of public services and the operation of public institutions.

In many instances such decisions would be made without parliamentary debate, meaningful public scrutiny or any process of public decision-making. Many of these changes would be made without due process and without right of appeal. Many would also grant legal immunity to those involved and insulate the government from future

liability.

The anti-democratic centralization of ultimate decision-making power that the bill will permit is accompanied at the same time by a certain devolution of some powers to municipalities and to commercial interests. We see also a granting to municipalities of more powers to impose what really are regressive forms of taxation, ie, user fees, but they are regressive forms of taxation; also, granting certain employers more power to force down public sector wages through contravening contractual obligations and granting drug manufacturers more power to set drug prices. So there's also a devolution.

Bill 26 is really an act to restructure Ontario in many ways, and we believe that it's a major step in the creation

of a two-tiered medical system in this province.

We want to draw your attention to the fact that these changes have particular implications for women and for other groups already marginalized from decision-making power in this society. It advances the principle that Vandana Shiva, a well-known Third World activist, has termed "protecting the strong from the weak." This is a complete inversion of the function of government. It will further marginalize the marginalized, with long-term implications for the nature and health of our society. We really want to stress the issue of long-term over short-term and point out to a government that's apparently very concerned about financial issues the enormous costs of problems that could and should have been prevented.

First, let's talk about the issue of informed decision-making. This is an essential principle that physicians and other health care providers have sought to advance, and Bill 26 contravenes this principle in particular by assuming that every insured patient is deemed to have consented to the disclosure of confidential medical information. That's just one example of a quite graphic contra-

vention of informed decision-making rights.

On a collective level, however, we also believe the principle of informed decision-making provides a very important model for public decision-making. We feel that Bill 26, in its content, and not just in its content but, very importantly, in its process, in the process of its development and in the process of its introduction, contravenes this principle. The public has not been able to receive full and clear information and the public has not had sufficient time for consideration.

The public interest and the public process: I want to point out that upon reading through sections of the bill and commentaries on the bill, it's clear that Bill 26 misrepresents the public interest. It suggests that cabinet and ministers are competent to assess the public interest

without due process. In fact, the service of the public interest requires informed decision-making by members of the public and public involvement in decision-making. This cannot be appropriated by cabinet alone. It is not something they can do independently. It's crucial that stakeholders—consumers and service providers—be part of these decision-making processes. It's also crucial that citizens in general, not just as consumers, have a right, have a role to contribute their community sensibilities and their expertise as members of communities to the process of decision-making.

We really do feel that it's important to put on record our objection to the process that's been put in place. There has been inadequate time. There is no intervenor funding. It's a very difficult process to actually contribute meaningfully to this debate. So we really claim our right to speak about general issues and we want to give the obligation to the government proposing this bill to actually look into the specifics and research the specifics of the implications we're raising.

Let's look at part 2, which is the issue in general of women's health. First of all, let's define women's health. Women's health is not just a medical state indicating the absence of pathology; it includes women's emotional, social, cultural, mental and physical wellbeing over both the short and the long terms.

We think it's important to take a determinants approach to women's health. Women's health is determined not just by access to health care, but also by the physical environment, by the social, political and economic context of women's lives.

The determinants approach to health assessment and health betterment suggests the impossibility of examining health policy and social policy in isolation. I think it's important to stress that it's increasingly recognized by many levels of government, particularly the federal government, that a determinants approach to health is an important adjunct to a medical approach to health. And it's a long-term rather than a shortsighted, I might say, approach.

Bill 26, it's important to recognize, although it has many, many profound implications on health care, does not seem to have an understanding of health. Not only does it not have a determinants understanding of health; it even fails to consider medical necessity. So in effect it's not only reducing our understanding of health from a broad understanding of health which includes social implications; it's minimalizing it below the standard definition of health, which is a medical interpretation of health, by removing reference to medically necessary services in the Health Insurance Act. I think that's fairly profound in terms of a misunderstanding of health, and it permits economic dogma, if I may put it so boldly, to override health concerns.

We'd like to assess some of what we consider to be the general health threats from Bill 26. We feel that women's health in Ontario is threatened in numerous ways. Let me just add, as an aside, that we of course consider that everybody's health is threatened by this bill. We are not in the slightest bit less concerned about men's health; it's just that we do think it's important to raise issues of women's health in particular because they are so

often and so frequently ignored. So that's why we're making this emphasis, but let me stress that we are of course concerned about the health of all Ontarians.

It's necessary to stress that the health effects of these changes are long-term. We're talking about long-term implications. As determinants of general population health, we can expect to see many of the effects of Bill 26 arising in years to come with, again, concomitant increases in costs to address problems that were better addressed through prevention. We wish to point out five particular determinants affected by Bill 26, but this list is not complete. Bill 26 will have many effects that will only become apparent over time.

First, the environmental determinants and threats to the environment which harm our health: For women, an issue of profound concern is breast cancer and the environmental toxins that have a role in its causation. Environmental degradation, however, is going to be fostered by this bill, we believe, through gutting the laws governing cleanups with mines, threatening the viability of conservation authorities and changes to laws governing forest fire prevention and lakes and river improvement, which are the only ones that we've noticed, but we're sure there are probably more.

Second, threats to women's aspirations for economic equality: We think it's extremely important to indicate that amendments to the Pay Equity Act are going to have an implication, obviously, on at least 100,000 low-paid women in terms of their economic status. But this is a health determinant. This is a threat to women's health.

Third, threats to economic justice: Workers will be negatively affected by various aspects of the bill. We wish to point out that, as was recently revealed, the income gap between women and men is now growing in this country. Changes that adversely affect workers will doubly affect women workers and other marginalized workers. I won't go through the details there. We also want to point out in terms of an issue of economic justice that the increase in user fees for both social and health services envisioned by Bill 26, including municipal services, prescription drugs and medical and hospital user fees, is a form of regressive taxation that disproportionately hurts the poorest and the most marginalized members of our society. It's important to constantly reiterate that user fees are a form of taxation; they're a form of regressive taxation.

Fourth, threats to social justice: Of course, threats to social justice affect all Ontarians, but they affect women and members of marginalized groups in particular. Health effects, including mental health effects, may not be immediately visible but do accrue through increased stress and anxiety brought about by general changes, and specifically by some limitations that have been imposed upon the public's right to access information and the public's right to privacy. We'll get into some of those implications in a bit more detail later.

Fifth, there are obviously threats in this bill to accessible and good health care. Bill 26 threatens accessible and decent health care in a number of ways: (1) by fostering the further erosion of the principle of universality, (2) by fostering commercialization, privatization and deregula-

tion. I won't go through all the details, but it is important to point out that things like removing limitations on forprofit operators are going to encourage American forprofit companies to take over an increasing part of Ontario's health care system. We've got a deregulation of drug prices, making it more difficult for people to get access to drugs at reasonable prices and conceivably creating regional disparities in terms of drug prices that are going to affect people. And we are inviting new user fees, funding reductions and delisting.

In terms of a threat to social justice, we think there's also an issue here in the bill of fostering conflicts of interest. We're particularly concerned about places in the bill such as the changes to procedures for establishing an independent health facility that would allow the minister to limit a request for proposals to specified persons rather than a public call for tenders. We think something like that is a problem in terms of raising issues of conflict of interest. We also think there's a lot of flexibility in terms of discretionary powers in the bill that do raise, do intensify, concerns that already exist about conflicts of interest between ministers or the cabinet in terms of their personal or their private interests versus their public responsibilities. The only way to ensure that there are public responsibilities is through due process; not through particularity and not through discretion, but through due

All right, the next section. We want to look at some particular issues related to women's health that have some particular implications for the reproductive, genetic and biotechnologies that are our specific concern.

We believe there are several specific changes introduced by Bill 26 which will have a negative effect on women's health. In particular, the provisions which threaten the right to privacy for medical records are very, very worrying. But Bill 26 is more than the sum of its parts. Taken together, the bill advances the existing trends towards a more inaccessible and ineffective health care system for women and a more unjust society which will affect women and other marginalized groups disproportionately. We believe this bill has particular implications for NRGTs.

The Ontario government has already been involved in an attempt to further the interests of the biotechnology industry. The previous government, through the Ministry of Economic Development and Trade, did fund the Biotechnology Council of Ontario to develop a wish list for the advancement of their interests in the province, but fortunately the previous government was responsive to the concerns of public interest groups when we raised our voices and the proposals of the BCO did not proceed. We raise this point because we believe that Bill 26 frames an approach to health and health care that will advance the interests of industry over the interests of citizens. When it comes to biotechnology, some of the concerns that existed around the BCO, this raises particular concerns for women

Our health care and our social systems are already advancing down a path of increasing intolerance towards difference and diversity. The use of diagnostics to screen for genetic and other congenital "defects" in the embryo or foetus is increasing. It is important to remember that

these tests are not very informative. They provide information about a genetic, chromosomal or other congenital issue, but they cannot assess health status, they cannot assess the degree to which the condition will be disabling, because disability is not just about biology. It's about the social conditions that improve or retard the rights and opportunities for persons with disabilities.

These technologies are promoted as advancing women's rights, but we question this. We have serious concerns that these technologies threaten the rights of persons with disabilities by promoting eugenic attitudes which equate the value of an individual with certain arbitrary standards such as their DNA, their "intelligence"

or their physical "ability."

They also threaten women's reproductive autonomy by imposing quality control standards on women. The imperative to produce a quality child has already led to much scapegoating and the legal infringement of women's rights. We've seen a lot of hype about things like coke babies and the dangers of foetal alcoholism, with very, very poor research, I must add. The kind of hype that we've seen really does illustrate the way that non-definitive research is made to serve the agenda of blaming poor women for their poverty and subjecting all pregnant women to sanctimonious injunctions which completely exaggerate the level of control that women actually have over their lives, the environmental conditions of their lives, the social and economic conditions of their lives.

We think the increasingly high-tech approach to pregnancy, the tendency to set up a conflictual relationship between a woman and her foetus and the increasing obligation to produce quality children grossly exaggerate women's power. It's important to add this to the issue of industry. We do think the increasing commercialization of health care in this province is going to promote highertech approaches that really don't look at broader issues in terms of health assessment and health determination.

I should also say as an aside that we are a pro-choice organization. Our concern about prenatal diagnosis is in no way reflective of a concern about abortion. It's a concern about selectivity. It's a concern about eugenics, which is completely different from a concern about a woman's rights to make decisions about her reproductive life.

I also want to raise concerns about pre-symptomatic genetic diagnostics, which are a very big growth industry in biotechnology. They haven't really grown that much in this province but we can certainly anticipate their further growth with greater commercialization of the health care industry. This information, when carefully and respectfully gathered, may be of interest to certain affected individuals, but there are many problems attached. The privacy commissioner of Canada has clearly identified genetic testing as an issue of concern for privacy.

Bill 26, however, will further restrict an individual's right to privacy, with serious implications for their ability to access health and life insurance or even health care in the new two-tiered health care system being advanced by this bill. This is an extremely important point in terms of genetic information. There needs to be stronger protection for privacy rights. There needs to be absolute insurance

that this kind of information cannot go to insurance companies, cannot go to employers, cannot get outside the hands of those who are protecting the interests of the individuals.

These infringements on privacy will make it harder for women to make decisions about their reproductive lives. Aware that medical information can be made available to others, women will be pressured even more strongly to avoid genetic taints in their offspring. Furthermore, we are concerned that women's reproductive histories, including women's use of therapeutic abortion procedures, will no longer be private, with serious implications for some women.

These are just some of the specific things that we think relate to NRGTs.

In closing, we wish to communicate to the government our strong concerns about Bill 26. We hope the government will withdraw this bill and develop systems of public participation which permit changes to proceed in a manner that genuinely serves the public interest. Thank you.

The Chair: Thank you. We've got about nine minutes left for questions, beginning with Ms Lankin.

Ms Lankin: It's a very thoughtful and thoughtprovoking presentation. I might just add as an aside that if you couldn't speak as quickly as you did, we wouldn't have got through it all in the half-hour that we'd allotted you, but I'm glad you have and that there are couple of minutes left.

My first question is with respect to your comments on the centralization of power. You've spoken about the process that we're going through with this bill as being fundamentally anti-democratic, but you also speak to the centralization of power as being a danger to democratic processes in our communities, and you made reference to a principle that Vandana Shiva terms protecting the strong from the weak. Could you elaborate on that, talking about marginalization? And you go on with long-term implications for the nature and health of our communities.

Ms Miller: I don't know if I can elaborate. I mean, it's one of those striking phrases that Vandana Shiva uses which I think points out quite clearly in a very, very succinct way what the concern is of so many people when it comes to this bill in particular, but also, I must add, to the way this government is proceeding.

There is a strong sense that what we are seeing is a government that's not protecting our interests, and in fact not only is it not protecting our interests but it's taking rights away from us and we are feeling less and less able to influence this government and to influence it in a democratic way. It's transferring our rights.

We're being termed as individual special interests. We're not special interests; we are citizens. We're not paid to sit here, unlike yourselves. In fact not only are we not paid to sit here, this costs us money, but this is a duty that we take on and we take very seriously as citizens of this province who have very serious concerns about this province. We feel that the concerns of people like ourselves are not being considered.

Ms Rock: I would like to just pull in a point that I heard Ms Johns raise with respect to being from a rural

part of the province. Being from a rural area of Canada originally and not being someone who grew up in Toronto, I think very often the temptation is to phrase things in terms of equality of opportunity. We're looking at issues around equality of outcome. People want to have jobs in this province; they want to make a decent wage. But ultimately what people require is a decent income. This is one of the fundamental determinants of health and wellbeing.

With respect to genetic and reproductive technologies in particular, there may be a temptation to say, "What we really need to do is make sure that all available technologies, all available procedures, are equally available to all people in different parts of Ontario." This is not necessarily the approach you advocate. We need to have a process that very democratically and very appropriately looks at priorities for public spending.

In terms of looking at the determinants of health and wellbeing, income is of fundamental importance. That is a key component, having access to health services, appropriate triaging, so that if you need to come into a city like Toronto to get certain services those are available, but there are mechanisms to permit that to happen.

With respect to issues such as therapeutic abortion, if somebody is in need of that type of a service and that service is available to them as a right to a woman who lives in any part of Ontario, this is an appropriate way of prioritizing, triaging, health services. This is, I think, of fundamental importance in thinking about how to proceed on a health and wellbeing agenda.

The Chair: Okay, we need to get on to the next question. The government.

Mr Clement: Thank you very much for your presentation. I wanted to turn first to your concerns about confidentiality and privacy. It's the government's position that under this bill there are still protections for confidential information under the Freedom of Information and Protection of Privacy Act. That's not good enough for you, though?

Ms Rock: I'd like to speak to this with respect to the issue of confidentiality of medical records and the way in which women who come in are dealt with by the social service and the health care system. Recently, for example, there was an important decision made with respect to access to counselling files. We're looking at the issue of health and wellbeing in a broader sense and simply saying: "This is a hospital. This is about health care." We're talking about the different ways in which the systems and the social environment are set up that in the long run have negative impacts on the health and wellbeing of women.

The freedom of information act is a very useful avenue and a very important avenue. However, there are concerns about privacy with respect to, for example, genetic testing and the ways in which this bill fails to protect in the long term some of these important agendas such as reproductive and genetic results, the intersection between the public and the private health systems, so that if I am prediagnosed at age 5 as having early-onset Alzheimer's and that information is made available to employers, this obviously affects my employability.

Mr Clement: I agree with you there, but I don't think we're suggesting that.

Ms Rock: The decisions that are made at this point about how to structure access to resources in Ontario have very long-term implications. That's the issue.

Mr Clement: Can I just turn to another issue? I think you dealt very cogently on the determinants to women's health. It's a broader picture than simply health care, and I agree with you 100% on that. We on our side believe that the deficits that have been racked up by previous governments, the lack of control of spending, have endangered our social assistance system, endangered our health care, endangered the ability for Ontario to create jobs and that will have an impact on women's health if we continue with the status quo, which is deteriorating.

Ms Rock: I respectfully request that this government

look at the revenue side of the equation.

Mr Clement: We are looking at the revenue side. There is no revenue if there's no economic opportunity.

Ms Rock: That's my answer. The deficit—can I just make a point?

The Chair: Thank you, Mr Clement. We have to go

on to the next question.

Ms Rock: I think the point needs to be made that there are alternatives. There are always alternatives and

dogma is never an answer.

Ms Castrilli: Let me just pick up where Mr Clement left off and read you a letter from the privacy commissioner of December 6 in which he states that the bill has "the potential to significantly increase the amount of personal, health-related information that will be gathered, significantly increase the number of uses that may be made of this information and raise the possibility of new and troubling disclosures of the information." That's repeated again in an article that the privacy commissioner wrote in the Toronto Star earlier this month. So your concerns about privacy and the use of confidential information have been looked at by individuals who are experienced in this area and found wanting.

You have recommended that the bill be withdrawn. If that is not possible, would you recommend that the bill be divided into appropriate sections in order to be able to be discussed at greater length and have a period of public consultation? You yourself said that you were rather rushed in trying to get this together, and I commend you, because you've covered a lot of territory in your presen-

tation.

Ms Rock: I think it's absolutely essential that there be sufficient time for a meaningful process of public information-gathering and public contributions to the decisionmaking process. I don't particularly mind how that's done. If it's broken up into sections, then that may or may not work. I don't want to insist upon a particular approach, but what's crucial is that there be an extended process.

The existing set of hearings are absolutely inadequate. There are many, many groups that we are in contact with that have not been able to and will not be able to pull together their time to do this. I'm a PhD student, so I actually have the time and I actually have some of the facilities. I also consider it to be my job, as what good old Harold Innis called the "public intellectual," to do

this kind of work, but there are not many organizations that have those resources, limited as they are. This is a completely inadequate process and it needs to be extended.

There needs to be, I will add, intervenor funding. It is not possible for groups like ourselves that have no resources to pull together a really critically detailed analysis of the sections of this bill without some support. If we're going to be asked questions such as the honourable Mr Clement asked—do we really think that this act, in terms of freedom of information and privacy, is as bad as we think?-then I want to hire a lawyer. I will be happy to do that and I'll get back to you. It's important that if we're making these kinds of contributions and we're doing the kind of research that needs to be done, we need to have the support in order to do that fully.

The Chair: Thank you. We appreciate your attendance here and your involvement in our process.

1530

INTERNATIONAL FREEDOM IN HEALTH

The Chair: Our next presenter is from International Freedom in Health, Mr J.G. Coleman. Good afternoon, sir, and welcome to our committee. You have a half-hour to use as you see fit. Any time that you leave for questions will be divided up, beginning with the government. The floor is yours.

Mr Gord Coleman: Good afternoon. My name is Gord Coleman and I am the executive director of International Freedom in Health, a non-profit umbrella organization representing Canada, the United States and Mexico, which seeks to establish just and inclusionary global health delivery systems under the banner of freedom of choice.

The good doctors DeMarco, Culbert and Rodriguez were not able to attend today representing their respective countries, having only been given 48 hours' notice to present. I convey their regrets. I will be reading today from my prepared text from the left-hand side of the folder which has been distributed to you.

We'd like to thank you for your invitation to present today on Bill 26, which we now refer to as the Ontario ominous bill. Our half-hour time restriction will not permit us to delve as deeply into the potential human rights infringements of this bill as we might like, so we have prepared a package for each of the committee members as a fast and easy reference guide.

In order that you do not label us as simply lobbyists, as the chief medical officer of this province has, we invite you to read our charter mission statements and our Ontario health reform proposal, labelled exhibit 1, at your convenience. Please note that this proposal has sat with the past two provincial administrations here without so much as an acknowledgement of its receipt.

To add further insight as to who we are and what we're all about, I would like to take the liberty of reading three of our seven mandates.

"Article II: To link the many disparate health groups, agencies and associations, by way of communications in the areas of world health movement, questionable legislation, potentially unfair business practices, unilateral treaties and trade pacts, health research and discoveries and threatening litigation.

"Article VI: To foster a legacy of trust and camaraderie through diligent negotiations within the existing medical models, towards the 'shared vision' of universal health freedom for all.

"Article VII: To vigilantly guard against any and all medical human rights infringements, whether they be economically, politically, legally or sociologically motivated."

The areas on which we would like to focus our attention today for expediency's sake evolve around the issues of privacy, access to information, conflict of interest, informed consent, freedom of choice and leadership.

We believe the best way to do this is through taking a microscopic look at the root problem which now has the potential of blossoming into an unmanageable killer weed under this proposed legislation if not seriously addressed now.

The original Hippocratic oath, as taken by doctors, and its subsequent modified oath, as signed in Geneva in 1948, with the name the International Physicians' Code of Ethics, both state in article IV, "Protect the patient's secrets." Today we intend to prove that this oath has been violated, along with alleging that 12 of the 49 other articles which are endorsed by the Canadian Medical Association are in serious jeopardy of being breached as well. I refer you to exhibits 2 and 3.

How can medical practitioners be expected to work to the best of their ability, let alone place the wellbeing needs of the patient first, under the kinds of moral dilemmas this type of legislation promotes? You will note that in virtually every one of these statements it is the patient who has all the rights and determines all of their choices, not the physician nor the government, this in relationship to the verdicts passed down for the atrocities committed against the Holocaust victims during the Second World War.

On December 13, 1993, Bill 100, an act pertaining to doctor-patient sexual abuse, was passed in this building under closure. Within this very-needed bill, a last-minute section, number 27, was put in which gave your province's College of Physicians and Surgeons unprecedented search-and-seizure powers. This was one of the first unconstitutional medical power grabs in this province, which has set up this present greedy bid for more power.

On the floor of the House that day, 13 faxes were cited by Jim Wilson, the then Health opposition critic, and Barb Sullivan, his counterpart from the Liberal side. These letters were signed by the presidents of the various regulated health profession associations that were vehemently opposed to this section being added to the bill. I draw your attention and refer you to exhibit 4.

I would caution you, in these hearings, to avoid this kind of naysayer trap which most presenters coming before you are setting. I find it very ironic that all 13 of these letters are virtually identical and were written by the same lobbyist firm in Ottawa and simply distributed for signature that day; don't you? In fact, when Mr Harris's office was contacted about it, one of his top personal assistants was quoted as saying, "That's how the game is played here."

As we do not consider it a game at all, we met with Mr Harris and Jim Wilson on April 28, 1994, to discuss this kind of abuse of power. As opposition leader then, Mr Harris was more than sympathetic, issuing two letters stating his concerns about this issue of circumvention of law and due process. Please refer to exhibits 5 and 6.

In letter 5, he stated that these quality assurance provisions impose "significant restrictions on both the providers of health care and the citizens of Ontario."

In letter 6, to Ruth Grier, the then Minister of Health, he stated that this last-minute move to amend section 95 of schedule 2 of the Regulated Health Professions Act could well be a human rights violation and implored the minister to exercise her section 12 authority to refer the matter to the regulated health professions advisory council level as "[t]his issue is not in my opinion frivolous of vexatious."

As brief asides, Mr Wilson made two comments to us at the meeting of April 28 which did not sit well. First he said: "Wait until the regulation changes are published. Then submit your own changes. We change regulations around here at a rate of 300 a day on average." Then he said, in a reference directed at Janet Ecker, one of your committee members today, former Tory, then CPSO director of policy, research and analysis and now Tory backbencher: "I'm not very happy with her. She used to be one of us. I don't know what she's trying to accomplish by this."

I now refer you to exhibit 7, paragraph 7, page 2. Our organization and many others find it hard to fathom why all this power to circumvent due process of law was required for the "six to 12 physicians in the province who are found each year to have significant deficiencies in clinical skills."

As for the February 16, 1994, three-page letter from the CPSO registrar, Michael Dixon, to Michael Harris—as a case in point, the present case of the CPSO v Dr Krop has nothing to do with sexual abuse, yet it was these powers of private medical record confiscation which see him being prosecuted in a non-judicial setting in addition to confidential patient records being bantered about.

In conclusion, despite Mr Harris and Jim Wilson labelling these aforementioned issues as "somewhat of a red herring," we believe the question needs to be raised. What caused Mr Harris to change his mind? As early as December 1993, and up to the election of June 8, 1995, both Michael Harris and Jim Wilson were supportive of the case that potential abuses in the area of privacy and confidentiality might occur. However, from June 9, 1995, onwards there appears to be a need for even greater and broader unconstrained powers being bestowed upon bureaucrats and newly elected officials for reasons known only to them.

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As these new powers have the potential of being abused further still with regard to personal medical files being abused and doctors placed in a conflict-of-interest position, torn between honouring their oath or the government of the day, we contend that articles 3, 6, 25, 28, 40 and 42 of the International Physician's Code of Ethics have been breached and continue to be breached

as we sit here deciding on whether or not to increase

these alleged illegal powers.

Notwithstanding the fact that we may never know the reasonings for Mr Harris's 180-degree turn on these issues, we call upon this committee to strike all human rights infringement sections from the bill, in addition to putting forth a motion in the House to abrogate section 27 of Bill 100 prior to any international court action being taken. Thank you very much for your time.

The Chair: Thank you, sir. We have about five minutes per party left for questions, beginning with the

government.

Mrs Ecker: Thank you very much for your presentation and for taking the time to bring forward your concerns. I'd certainly enjoy debating the merits of Bill 100 again with you. I think the previous government actually took some very important steps—I know Ms Lankin may hold this against me later—on the quality assurance things in that respect. But we're here to discuss Bill 26, not Bill 100.

I'd like to talk a little bit about better outcomes, more effective care, because your organization has frequently argued that alternative medicine can provide more effective, more cost-effective, better care for many patients, that it would help in preventive measures etc. You've also argued that it might help prevent some of the misuse and abuse within the system that has occurred.

I guess one of the questions is, we recognize and acknowledge that better outcome measurements are really important in terms of the effectiveness of treatments—what works, what doesn't—not only for the patient but on a cost-effective basis. How is it possible to collect that information from the health care system unless we can devise a system where we can share that information: the treatment information, the data on what's happening in the system, what's happening with the treatments, albeit with confidentiality protections which we acknowledge are very important and are certainly interested in making sure that that is maintained. What's the best way to collect that information while protecting confidentiality?

Mr Coleman: That's a very good question. Far be it from me to suggest what the best method is. I should correct you that you're confusing me with freedom of choice in health care as opposed to International Freedom in Health. But let me quote Jim Wilson—

Mrs Ecker: The arguments are very similar.

Mr Coleman: It's not the same organization. Let me quote Mr Jim Wilson on CBC Newsworld two mornings ago: "As you know, we do not have armies of inspectors out there regarding this question and this issue." So I would return by asking the question: If all 24 regulated health professions were to have had their own quality assurance/management committees in place by the end of this year, there would have been in fact an army of inspectors. However, this government seems to negate the inspectors' aspect of it by wanting everything computerized. I can tell you in no uncertain terms, beware of computers. They literally work for you.

Mrs Ecker: So you're suggesting that we should not be computerizing health information within Ontario in terms of better, effective management of the system?

Mr Coleman: Not unless your security codes are failsafe, and there is not a fail-safe system out there in the world today.

Mrs Ecker: So you don't have any further suggestions on how we can collect that information so we can take a look at the outcomes of either alternative treatments or more traditional treatments? Obviously, that's something I gather everybody has difficulty deciding on.

Mr Coleman: No. I can say in no uncertain terms again, certainly not by breaching the trust between a

physician and a patient.

Mrs Ecker: Okay. Are there ways the government can work to better ensure that patients do have a wider range of choices for health care available to them?

Mr Coleman: Most certainly. They're in the health

proposal which is in front of you.

Mrs Ecker: Would you care to elaborate at all on hem?

Mr Coleman: How much time do I have? **The Chair:** You've got about 30 seconds.

Mr Coleman: Well, we should pause for a commercial break then.

The Chair: Okay. Mrs Caplan.

Mrs Caplan: I appreciate a very thoughtful presentation. We haven't always agreed on all the issues, but I share your concerns when it comes to the powers of the minister, particularly the concerns regarding patient confidentiality, because this bill, as you've pointed out, gives the minister unrestricted powers to collect, to share. Even if there is inadvertent disclosure, or deliberate disclosure, public disclosure, there are no sanctions or penalties that can be brought against the minister.

I want you to know that where I disagree with you is that I do think it's in the patients' interests to have their providers have the information that they need to provide good care, and I think there's got to be provision for the sharing of that information. I think that's good quality

care and that's continuance of care.

Mr Coleman: My response to that is simply, let every citizen of Ontario have access to their own medical files, on a smart card or whatever basis, so that they can convey that information upon feeling as though they've

been taken advantage of, on that basis.

Mrs Caplan: I hear what you're saying and I think that there are ways to ensure that the patient has the opportunity to give that consent; for example, seniors who sometimes forget, when they go from doctor to doctor, which drugs they have been prescribed and the way that they are supposed to take them—it's important that they know so that they can make sure that person is

getting the best-quality care.

My concerns are not for the information shared among providers, who are all covered by this freedom of information legislation. What I've said and what we ask is that the government remove all the sections and do what the protection of privacy commissioner has recommended, and that is: Bring in a piece of legislation that will allow for appropriate access to ensure high-quality patient care, to make sure their confidentiality is protected, to allow for appropriate research and to deal with the issues of fraud in a way which also protects personal privacy, so that that bill can be debated and we can all be assured

that whether it is through smart card technology or whatever method the government chooses, people can be assured that nobody can snoop into their medical records for purposes other than high-quality care and appropriate research to which they have concepted

research to which they have consented.

That's the basis of my concerns, and I share those concerns with you because those protections are not in this legislation, and the privacy commissioner has been very clear that they're not in this legislation. I wanted to make sure that was clear as to how I was feeling about this, and also that I've heard your concerns and I don't think that our two positions are irreconcilable on this point.

Mr Coleman: Not at all. In fact, we'd be happy to

support you on the latter.

Mrs Caplan: Support for the removal of all those sections and a new piece of legislation to be able to deal with those important issues of quality care, access to records for research and fraud and do it in one piece of legislation that will also ensure privacy?

Mr Coleman: That's correct.

Mrs Caplan: Thank you very much.

Ms Lankin: Thank you, Mr Coleman, for spending the time here with us today to make your views known. I think that the content of your presentation has been covered by the questions of my colleagues. I'm pleased to hear your support for the suggestion that these sections be pulled out of the bill and that we deal with a comprehensive approach on protection of health information, the

privacy of health information.

You may be interested to know, in the last couple of days a whole myriad of groups has been calling for this government to stop this hearing process, to split the bills and to allow us the appropriate time to do the analysis and to debate these bills separately; groups like the Toronto Psychoanalytic Society, the College of Physicians and Surgeons—at one point you may agree with them on there—the South Riverdale Community Health Centre, the Lakeshore Area Multi-Service Project, the Ontario Coalition of Senior Citizens' Organizations, Survivors of Medical Abuse, the Older Women's Network, the OMA, and the Feminist Alliance on New Reproductive and Genetic Technologies just finished presenting us with the same thing, and many other groups.

I would like to inform you that at 5 o'clock today we will be debating a motion I tabled in this committee this morning which calls on this committee to recommend to the government House leader that on January 29, when this bill is to be reported back, the House actually amend the order of business to refer the bill out to further committees, that the bill be split and that we have an opportunity to adequately analyse and debate this bill.

I'm very hopeful that this committee will pass that. I take your words as support for that motion, and I would encourage you to stay and watch that particular debate.

Mr Coleman: I thank you for the invitation, and I will. Might I add that, hopefully, some of this Mike Harris evidence I've entered today will be a major poker chip in your achieving that end.

Ms Lankin: Thank you.

The Chair: Thank you, sir, for your presentation this afternoon. We appreciate your involvement in our process.

1550

DRUG QUALITY AND THERAPEUTICS COMMITTEE

The Chair: Our next presentation is from the Drug Quality and Therapeutics Committee, Dr Malcolm Moore.

Mrs Ecker: Mr Chair, as they're taking their seats, I'd like the record to show that last time I checked, I don't think I'd describe myself as a former Tory.

The Chair: Duly noted.

Good afternoon, gentlemen. We welcome you to our committee. You have a half-hour to use as you see fit. If you leave time for questions at the end, questions will begin with the official opposition, the Liberals.

Dr Malcolm Moore: Good afternoon. I'm Dr Malcolm Moore. I'm a medical oncologist and clinical pharmacologist at the Ontario Cancer Institute/Princess Margaret Hospital, and I'm also the chair of the Drug Quality and Therapeutics Committee, the province of Ontario.

Dr Allan Detsky: I'm Dr Allan Detsky. I'm a faculty member in the division of community health at the University of Toronto, and I've been a member of the Drug Quality and Therapeutics Committee since 1991.

Dr Moore: What I'd like to do is first of all give you a brief summary, a couple of minutes of education about what our committee does and how we fit into the drug program area. Then Dr Detsky will make a few comments and we'll take some questions. There are some points regarding what I'm going to present that are just

being handed out.

The DQTC is an expert advisory committee to the Ministry of Health. We don't work for the Ministry of Health; we all have regular jobs somewhere else. We provide advice regarding drug-related issues. At the present time there are 12 of us. We're physicians, clinical pharmacologists, pharmacists, health economists and clinical epidemiologists from around the province. Our terms of reference are fairly extensive, but basically the primary function we serve is to give decisions or advice to the minister regarding what status drugs should have on the Ontario Drug Benefit Formulary.

The Ontario Drug Benefit Formulary, just to remind you, is basically a listing of products, and if the drug is listed in the formulary it will be paid for for people who are beneficiaries for the program, which is seniors, people in home care and long-term-care facilities, and people on

family benefits or general welfare assistance.

In the context of the bill, I think it's important to recognize that there are really three ways we can classify drugs under the current program.

The first is that if we add a drug to the formulary, it is

available to all beneficiaries without restrictions.

We also have another category which is called "limited use," and when we have a limited use product, we provide what we think are reasonable indications for the use of that product. However, the current legislation does not allow the ministry the authority to restrict payment for those indications, so in fact, even though we list indications, if anyone prescribes it for any use, it has to be paid for.

The third category is that we will not add a drug to the formulary. Under those situations, it is still available under section 8, which basically means that the physician has to write a letter to the minister outlining why this patient requires this drug. I should let you know that for certain drugs where we're concerned about inappropriate usage, this is actually the mechanism we use to control the usage.

You could spend the entire hearings on the whole problem of the cost of the drug program, but basically, even though it's a free drug program, drugs are not free. In fact, as time goes on, we're looking at more and more expensive drugs for inclusion, drugs that cost hundreds or thousands of dollars a month. The problem of the cost of the drug program is not an Ontario-specific problem. This is something that has been seen in all jurisdictions around the world.

In general there are two reasons. One is that as the population gets older you have more people qualifying for the program, and more importantly, the new drugs we're considering are in general much more expensive than the older ones. They may offer some advantages and they may be in areas where previously we did not use drugs. As new drugs come out there's an expectation they'll be added to the formulary, so we're expanding the whole therapeutic armamentarium all the time.

Our committee feels that in these fiscal times, it's very important that we try to get good value for our money, and there are two ways we would look at that.

The first is that if we're going to add a new product to the formulary, we want to be sure that for the money we're spending we're getting good value. I'm proud to say that in Ontario we're recognized as one of the world leaders in requiring pharmacoeconomic assessments before drugs go into the formulary. Dr Detsky, who's beside me, has been the leader in that.

The second area is ensuring that the drugs that are available on the formulary are used appropriately, and I think this is an area where we have not done so well. Many of the expensive new drugs that we've added are of value, but our feeling is that often they're used inappropriately, what I would call economically inappropriately. There are cheaper drugs available that could be used. In order to deal with this issue, we do need some guidelines for the use of certain drugs and, in addition, some way of ensuring that the guidelines are followed.

With those caveats, I'd like to go through the four areas within schedule G of the bill, if I've got this right, that relate to the kind of work the committee does and

just provide you some comments.

The first is the whole issue of cost-sharing. What I'd like to say here is that cost-sharing is not an extraordinary measure. We're the only provincial jurisdiction that doesn't have it, in fact I think one of the only ones in the world that does not have it, so that by itself is not unique. And there's pretty good evidence that many seniors are on too many medications, and perhaps something that makes the patient and the physician look twice about what they're on and why they're on it could be a good thing.

As I understand this bill, this bill does not mandate any particular cost-sharing model. It just allows the process to occur. The committee feels it's a reasonable process. However, there's still some debate that could occur about what the best model of cost-sharing should be.

The second item, which is a relatively minor one, is the payment of "no substitution" prescriptions. Basically, at present, if a doctor writes a prescription for what we'll call an originator product and there's a generic in the formulary, the generic is provided, and that's cheaper, unless the doctor writes "no substitution," in which case the government has to provide the originator.

Our committee spends a lot of time making sure that the generic products are as good as the original products, and therefore we feel that spending extra money on using the originator when a generic exists is not good value for the money. We would be strongly supportive of that

measure in the bill.

The third issue is the whole issue of conditions of payment. This, to my mind, is the most important aspect of the bill regarding what our committee does. As I've said, at the present time if a drug is listed as a benefit, the government must pay for it regardless in which circumstances it's prescribed. We feel very strongly as a committee that for certain drugs reimbursement should be limited to be consistent with some generally accepted guidelines for drug use. This is not totally inclusive, but that might include only certain patients, only certain diseases or certain severity of disease, or only when other things have been tried and don't work. We might also want to limit a prescription size or duration of therapy, or we might only want to pay when certain prescribers who are acknowledged as being knowledgeable might use it.

The fact that we could not do that in the past has frustrated our committee, because we've been aware for some time that in certain areas prescribing could be better than it currently is, so the power to do that has the potential to provide some significant benefit. There are still issues around confidentiality that need to be addressed in terms of collecting information about payment. However, in general we're supportive of changes regarding linking payment to indications.

The last, which is quite a minor item, is the whole area of limiting of billing access to pharmacies that are on the network. Again, it's very important, when we're spending the kind of money we are on the drug program, that we can monitor and audit the system, and as such, all the pharmacies should be on the network. We would support that provision of the bill.

Dr Detsky: As I mentioned before, I'm Allan Detsky, from the University of Toronto. I've been on the committee for about five years now and took the lead in developing the pharmacoeconomic guidelines for ensuring that manufacturers provide us with information on which we could base decisions about value for money.

There are 12 members of the committee and at any given time there are probably 28 opinions, so I'm going to give you my opinion, which may or may not reflect the majority opinion of the members of the committee.

I'm particularly disturbed by this bill and certainly would not support the nature of the bill, because it is overencompassing and too far-reaching. While we on the DQTC have given many ministers several ideas about how to control drug costs and achieve more appropriate utilization on the part of physicians acting as agents for their patients, I think a broad, sweeping bill giving this much unspecified power to government is a very unwise decision. If the government passes this bill, I think it's going to find itself in hot water very quickly in a number of areas.

We certainly do need help in terms of allowing the DQTC to make recommendations to government that actually could be enacted in terms of appropriate utilization, but in my opinion, the portions of the bill ought to be significantly broken up so that the specific proposals could be debated one by one, in order to get a broad-based view, to not fall into a trap.

Let me give you the example of the cost-sharing proposal that the government has proposed. Cost-sharing per se is something I am very much in support of, unlike most of my health economist colleagues cross Canada. I think it's a very good idea, but the blunt type of cost-sharing that has been proposed, which is a \$2 fee for everyone, plus paying the dispensing fee by seniors who have income sufficient above the cut-point level, is not the right way to achieve appropriate utilization, because it doesn't teach the consumer anything about the extra cost for the extra value they're getting out of specific drugs.

Simply allowing the government to say it can impose cost-sharing without specifically debating the appropriate form of cost-sharing, in my opinion is an unwise idea. This entire bill, even as it reflects specifically the drug plan, is too much, too quick, too much power in one set of hands, without appropriately thinking through what's going to happen and will allow the government to make some very unwise decisions.

I've been a faculty member at the University of Toronto for 15 years. I've seen, I believe, 10 ministers of Health; there are two of them sitting here. Some of them held office so shortly, that for all I know, some of you guys were ministers of Health too. It's a complicated field. Even Mrs Caplan, who was in office about the longest—with all due respect to Mrs Caplan, I don't think she fully understood health care even at the end of her term. She was still mispronouncing the words, as I recall.

We health care providers were here before you guys took power; we're going to be here after you lose power. You have the potential to do good, you have the potential to do harm, and you need to go very slowly. In my opinion you ought to break this entire bill up, even the drug part of it, so that the specific proposals can be done in an equitable and efficient way.

It's a complicated issue.

The Chair: Thank you. We have about six minutes per party left for questions. Mrs Caplan, you start.

Mrs Caplan: I believe that everything Dr Detsky has said should be heard and listened to by the government. You're quite correct, ministers of Health are not doctors. The terminology and pronunciation of the words are complicated, and the policies are very complicated. That's one of the reasons that, as you know, or I hope you know, I stood in the House and said I never wanted these powers and I don't think any Minister of Health should have all of these powers. I said that when I was Minister

of Health, I say it now, and I would hope the government will listen, not only to the deputations coming here but from someone who actually sat in that chair and said, for all the reasons you have mentioned, that no minister should have all of those absolute powers. I want to thank you very much for coming forward. I know it is a dissenting view on the DQTC.

Dr Detsky: It might not be. I don't know.

Mrs Caplan: It might not—well, I understood it was a dissenting view from DQTC, or not?

Dr Detsky: I'm not sure that it is.

Mrs Caplan: You're not sure. Okay. The Drug Quality and Therapeutics Committee does excellent work. I always have had and continue to have great respect for their advice when it comes to drugs and drug therapies and so forth.

I'm concerned about the support for cost share because it has nothing whatever to do with achieving optimal therapy and appropriate drug use no matter what the model is. I think there are some serious issues here not only with the model that this government has chosen, which not only places an onerous burden on those who can least afford it, but it does not achieve the goal of appropriate drug use or good decision-making around the use of drugs. So I share your concern on that.

By the way, I support your request and suggestion that just the drug portion of this bill be a separate bill so that it can receive the full scrutiny and understanding of all the implications of the bill. I said in the House that I felt that all the components of just health should not be considered eligible for one omnibus bill because of the complexities, and the fact that whether it's deregulation of drug prices, the policy on no substitution, it's so complex that, frankly, even the members of the government caucus are not certain about it.

I want to take this opportunity to apologize to the parliamentary assistant—

Mrs Johns: Thank you.

Mrs Caplan: —because she did not make the comment. However, her colleague did. It was Mr Clement who said, and I want to put this on the record: "Finally, in terms of the interchangeability issue of drugs, which I agree with you is of great concern, my understanding is that the government's position is that if the person cannot use the cheaper drug because of medical reasons, the government will pay the difference. If that is in fact the proper interpretation of the bill, would you be happy with that?"

He said that to Mrs Feltes from the South Riverdale Community Health Centre, and while I listened to your presentation I wasn't certain whether you believed that this bill would allow that substitution to be paid for if in fact there was a special authorization on behalf of the patient. I thought I heard you suggest that it might be, and I wanted you to know that I did receive from the ministry the following comment on the no-substitution prescriptions.

They say, and this is from the ministry and I'll table this: "Under the proposed amendments in Bill 26 there will be no mechanism for the ministry to pay for the additional cost of no-substitution prescriptions. The ministry will no longer pay for a more expensive brand when there is a less expensive interchangeable product."

Mr Clement: "Interchangeable." That's the test?

Mrs Caplan: Of course, and that's what you were referring to when you said, "in terms of the interchangeability issue of drugs." That's what Hansard says.

Just to clarify, because it is a very complex issue: What the ministry pays for today is that if a doctor says his patient cannot tolerate the cheaper generic version for medical reasons, then the ministry, without the doctor having to go through a special authorization form, will pay the difference. That's the policy today. Under the policy today as well there can be application for special-authorization drugs which are not on the formulary.

Under the new policy we don't know if there's going to be any change on the special authorization. That's not contained in the bill but, given the broad powers of the minister, I believe that those decisions could be made arbitrarily and without public scrutiny, those broad

powers—

The Chair: Thank you, Mrs Caplan.

Mrs Caplan: Just allow me, if I could just finish my sentence, and I will be very brief. However, on the interchangeability issue there is no mechanism for someone who has an adverse reaction or a medical problem with a generic drug. If you get an opportunity to comment on that, I'd appreciate it.

I'm sorry for taking all of the time. As I say, I agree

with everything that Dr Detsky had to say.

The Chair: Thank you, Mrs Caplan. Ms Lankin.

Ms Lankin: I'm going to ask you not to take any of my time with you to answer Elinor's question that she didn't get around to.

Dr Detsky: She both asked and answered at the same

time.

1610

Ms Lankin: Actually, just to follow up on the issue of no substitutions, Dr Rachlis was presenting here yesterday and he was speaking to us about the BC government's policy of not simply enforcing a substitution of the generic brand, ie, the same chemical compound, but giving the province the ability to substitute for the cheapest—

Dr Detsky: Therapeutic.

Ms Lankin: —therapeutic. Thank you. Have you taken a look at what's happening in BC? Does DQTC

have any comments or thoughts about that?

Dr Moore: I must say, personally, I think that's not a bad model for costs, for cost sharing and reasonable cost savings. The status at the DQTC at the moment is that the ministry is compiling information for us about that, and it's sort of a business arising from the minutes and as more information comes available they're going to report back. So there are certain attractions to that system, but it's not something we've considered in any detail.

Dr Detsky: I'm going to give you something very specific. People who have sat on the DQTC know that there are five areas of drugs where you could save about \$200 million.

Ms Lankin: Yes, I've seen the list.

Dr Detsky: Non-steroidal anti-inflammatories, anti-depressants, choice of anti-hypertensives, choice of anti-ulcer and anti-heartburn drugs and some antibiotics.

You have four mechanisms: cost-sharing reference pricing in these specific areas, which is exactly what BC is doing, going very slowly, three drug classes at a time, which I think could be a wise thing to do. I'm not in favour of widespread reference pricing, but limited.

You could provide incentives for providers, for the prescribers to actually behave better, via mechanisms through physician reimbursement. That's the second mechanism. Those two things are decentralized. It puts it in the hands of the patient to make the decision of, "Do I want the cheaper drug or the more expensive drug?" in

consultation with the physician.

The third way, which seems to be what this bill is talking about, is administrative micro-management—very expensive, exceedingly difficult to do. Mrs Caplan as minister, Mr Wilson as minister or you as minister would not have wanted to be making these decisions in a micro-management way. That seems to be the direction here. I think that could work, but it would be expensive and would make lots of mistakes.

The fourth, which I think doesn't work at all, is

education, pure education without incentives.

You take those five drugs, you debate these four mechanisms, you come up with a single bill to address appropriate utilization and you can save \$200 million. That's very different than what I see in this bill.

Ms Lankin: I've got one more question, but I appreciate your comments. I want to tell you that we have heard the terminology of micro-management and bureaucratizing health care over and over again and this is only partway through day three of these hearings.

I also wanted just to ask you to talk about the process of the elimination of best available price from this context. The government will be going into negotiations with pharmaceutical manufacturers with respect to the price of purchase for drugs listed under the ODB.

We've heard from a number of pharmaceutical manufacturers. Today, we heard from one of them that their interpretation of what the minister is going to do is that they will be following the Patented Medicine Prices Review Board guidelines and they expect that the prices will be set in that context, including looking at the cost-effectiveness information from that context. This sort of slipped through because—

Dr Detsky: Of which they have none.

Ms Lankin: —I don't think a lot of people understood it and they went on to say—and this is dramatic, I thought—"As a result, we would expect to see a reduced role for the Drug Quality and Therapeutics Committee and a more open and transparent process."

I know the debate that has gone on within the industry and the ministry and the DQTC, particularly around the cost-effectiveness guidelines, pharmaco-economic guidelines that we've been trying to put in place. Could you comment on those representations from the industry

this morning?

Dr Detsky: The last thing you want to do is replace your regulated price with the Patented Medicine Prices Review Board's regulated price. Here's the one part of what I've seen in the bill that I actually do like.

For a complex set of economic reasons, which I don't have time to explain here—it would take an hour's

lecture—I do believe that deregulation of prices in the pharmaceutical area will actually lead to lower prices in Ontario for everyone, and it's specifically because the patient's physician doesn't have anything to do with the demand side, because the price is free to them and it will give the ministry and the private insurers greater power to negotiate much harder with manufacturers to come up with a reduced price.

But for God's sake don't replace that with the Patented Medicine Prices Review Board. That just gives them a

different target to set their price at.

Ms Lankin: They seem to assume, from their knowledge of what's happening, that's the process that's going to take place and that DQTC is going to be cut out.

Dr Detsky: Then they don't understand markets; they don't understand this market at all. Mrs Caplan will identify with this comment: In my family, the worst thing you could do is buy retail. The province of Ontario is the largest single purchaser of drugs, and we pay retail. There is tremendous room for getting a better price, but not by replacing the BAP with the Patented Medicine Prices Review.

Ms Lankin: And certainly not by cutting out the DQTC in terms of pharmaco-economic analysis.

The Chair: For the government, we have Mrs Johns. Mrs Johns: I'd like to thank you both for coming here. It was an interesting presentation in the fact that we saw two varying opinions in the same organization.

I think it shows that one of the continual thought processes is that we need change. Change isn't necessarily bad. We can't maintain the status quo in health care; we have to look for alternatives, and I think that's important, in our search, in looking for alternatives to how health care is being provided now. So I thank you for that.

I'm going to ask you each specific questions because you have such varying opinions, first of all to Dr Moore: The opposition seems concerned about the government no longer paying the full cost of a no-substitute claim. Can you tell me what you feel about that?

Dr Moore: First of all, as is obvious, we have a fairly spirited committee—

Mrs Johns: I would say so.

Dr Moore: —and a lot of interesting dialogue. We discussed certain areas of this bill at the committee meeting we had just over a week ago and this is what we came up with that we could agree on. We did not, at that committee, get into the whole context of, should this bill be split up and how is this bill for doctors and hospitals?

Dr Detsky: I wasn't there.

Dr Moore: And he wasn't there. We just wanted to focus on certain drug issues that we thought were relevant to us, and the others; there are other concerns.

With regard to the no-substitutions, our feeling is that again—and this is something we agree with the federal government on, which is unique—there's agreement about certain criteria that have to be met to declare a drug interchangeable. We think that only under exceptional circumstances should that be broken. So the practice of just routinely writing "no substitution" on a prescription does, to my mind, not meet that.

If there's an exceptional circumstance where someone goes from one to the other, has an adverse reaction with

the generic and you don't know its cause, there should be some sort of exceptional mechanism to get coverage, which would be the section 8. But the fact of the matter is, the money we're spending on no-substitutions right now, as I understand it, is basically people routinely writing "no subs" for the original prescription, not the situation where someone runs into trouble. To be honest, if you look at it, I think it's three drugs and it's done by promotion. I don't know if the manufacturers are here, but there are certain manufacturers who promote this—

Ms Lankin: There are big posters that say "No Subs."

Dr Moore: Yes. So I think you want to get rid of that because you'll save a lot of money. In those unique circumstances they may occur. We believe they're identical products, essentially, but there may be a situation where it might be reasonable that you could go through the section 8 mechanism.

Mrs Johns: Dr Detsky, one of the things that I think you disagreed with your cohort on was cost-sharing method; you definitely disagreed with the bill on the cost-sharing method. What would you recommend as an alternative to what we have, which is \$2 for under a certain income and \$100 plus dispensing fees over a certain income?

Dr Detsky: I don't think we disagree on this. What that mechanism does is address, "Should I buy the drug or not?" which is an important issue. But the more important issue is, once I choose to use an anti-hypertensive, should I pick a diuretic that's genericized at two cents a day or should I pick Vasotec, an ACE inhibitor, not genericized, at, and I'm making the price up, a buck a day? It's that level of price sensitivity that the patient and the clinician ought to have some opinion about.

A blunt across-the-board fee at \$2 a prescription doesn't in any way allow them to discuss, "Once I've spent my \$2 per prescription, should I pick the cheaper one or should I pick the less expensive one?" The reference pricing system around targeted specific drugs does get at that because it says: "We'll give you 10 cents for any anti-hypertensive you want per day. If the patient chooses to pay a buck, that's his or her business," and that's the kind of cost sharing I would be in favour of.

The second aspect of your cost-sharing bill—I assume it's your government's cost-sharing bill—is that doing this for patients on social assistance—and Malcolm knows I'm certainly no bleeding-heart Liberal or NDP member—is very counterproductive, because that will certainly lead to individuals without the means to pay for prescriptions not buying prescriptions that they truly need, which means coming back to the emergency ward sicker. For both efficiency grounds—it doesn't give the right price signal—and equity grounds—it penalizes the wrong people—I think that specific cost-sharing, if debated by itself, is a bad idea.

The Chair: Thank you very much, Ms Johns; your time flies, doesn't it? Doctors, we appreciate your attendance this afternoon, your involvement in our process. Have a good day.

Mrs Caplan: Do I have time to put a question to the ministry on record while the next presentation's coming?

The Chair: Sure.

Mrs Caplan: On the issues that were raised by the last presentation, the question that I have is, in the case of a prescription that would have been written for no substitution, which the ministry no longer will pay for and there's no mechanism for under section 8 for a special authorization, is there an opportunity for the patient to pay the difference between the generic and the brand name, as requested by the manufacturers, or is it an all-or-nothing, either they get the generic or they have to pay the full price of the brand name? I'd like to have some clarification.

The Chair: I think we have the answer to that, don't we? Did you hear that question?

Mrs Johns: I wasn't listening.

The Chair: Do we have the answer to that quickly or

do we need to get back with a written answer?

Mrs Caplan: The question is, is there any way that a patient for whom the generic is prescribed but who would prefer the brand name can pay the difference, or is it an all-or-nothing, they either get the generic under the ODB or they have to pay the full price, not just the difference? If so, could you reference a section here so we can see where that opportunity is?

Mrs Johns: They can pay the difference is the

answer.

The Chair: The ministry people will get us a section.

Mrs Johns: They'll get you the section.

Mrs Caplan: I appreciate that.

The Chair: Our next presenters are on their way, but they're not here yet, so why don't we have a five-minute coffee break? Recessed.

The committee recessed from 1623 to 1630.

INCOME MAINTENANCE GROUP

The Chair: We have our last group for this afternoon, the Income Maintenance Group, represented by Scott Seiler. Obviously someone's with you, Mr Seiler, whom I'll allow you to introduce. Welcome to our committee. You have one half-hour to use as you see fit. Questioning will start with the New Democrats at the end of your presentation. The floor is yours, sir.

Mr Scott Seiler: My name is Scott Seiler and I'm the coordinator of the Income Maintenance group. This is Harry Beatty and he is a staff lawyer with the Advocacy Resource Centre for the Handicapped here in Toronto.

We represent the Income Maintenance Group, which has been in existence since 1978 and has been dealing with social assistance, social services and health-related issues since then. Basically, what I'm here to talk about are some of the issues that we feel are very important around Bill 26. I guess I'll start right away so we can have as much time for questions as possible.

I would like to first talk about the drug benefit plan and the copayment issue around the drug benefit plan. I think it's very important for all of you to realize that any copayment for persons with disabilities on social assistance will probably end up making people make a choice between, "Do I buy food, pay my rent or get the medications?" That's how slim the budgets are for people with disabilities on assistance. For the most part, people have high rents and it's not exactly easy to put out any other money.

We've also got some issues around the copayment as well. We're going to be faced with multiple copayments. We're going to be faced with copayments for other services as well, both on the provincial and municipal levels. The copayments are going to rise for people who are on these very limited incomes.

So it's very important that we do not have copayments. The Income Maintenance Group has fought for no copayments for any kind of health-related services, including the drug benefit plan, for a long, long time. I think it's very important that we do not see any copayments in any future plans; they will be prohibitive, they will be costly to the government in many ways.

For instance, one of the ways that they will be costly is that if people aren't taking psychiatric medications, you're going to end up with people being hospitalized—the same with many other medications—and the hospitalization will definitely be more expensive than the \$2 or \$3 or however much the copayment would be. Also, we're afraid that copayments will increase as time goes on and we'll end up with a system where the majority of the payment for the medication will not be from the formulary itself but from the consumer using the drug itself.

The next issue I want to talk about is the narrowing of the definition of "disability" and the issue of health records being secured in this province, and the confidentiality issue for freedom of information as well.

One of the things that we are concerned about in the Income Maintenance Group is the narrowing of the definition of "disability," which would mean that less people who are on disability pensions would end up being eligible for such pensions. Using the files that doctors hold in their possession, the Health minister would be able to get access through Bill 26 and the provisions for the ministry to be able to have people's personal health records. I'm afraid that we're going to see here a situation where the people's personal files will be compared with the files that are on record by programs such as the FBA program and the family benefits people to be able to cross-reference to see if people are truly disabled or not. We think this is basically a wrong idea, and it's not the way to save any money as well.

The narrowing of the definition of "disability" has some costs as well. Some of the costs of narrowing the definition of "disability" will be homelessness, increased suicides, increased illnesses, increased hospitalizations and institutionalizations. You're not going to solve a problem by narrowing the definition of "disability" or lessening the number of people on disability pension, because they're just going to have to go somewhere else to be fed and housed if they're not getting the proper things they're getting now, and those places could be institutions, the prison system and many other things too.

Mr Harry Beatty: One of the things the Income Maintenance Group has discussed over the years, and that of course our members have discussed with many individuals with disabilities and family members, is the range of disability-related costs which individuals with disabilities and their families face. If you set it in the context of the proposed \$2 copayment for social assistance recipients, it doesn't seem like that much money, but we believe that because of cutbacks on all levels,

both governmental cutbacks and cutbacks in the nonprofit sector and also increased cost constraints on forprofit services too, people are going to be faced with more and more costs, and the cumulative effect really gives us a problem.

Of course the disability-related costs are the greatest, usually, for those in most need. The same individual may require several medications each month, but may also require a wheelchair or other large-sized assistive device, where of course there's a basic 25% copayment under the assistive devices program, and it's often larger because of caps that have been placed on some of the devices. There is personal care, transportation, if there isn't equal access to accessible transit, and so on. With charges like the copayments, if you look at them one at a time, you may get the sense that this isn't too much, but if you look at the cumulative effect, it may be quite a bit more.

I want to talk a bit about the section of our brief called "Equal Access to Health Care for Persons With Disabilities," beginning on page 7. Of course, many disability organizations and individuals with disabilities have argued against the medical model of disability services, which means basically that they don't believe that all services for people with disability have to be within a health care system or delivered by health professionals. At the same time, it's an obvious fact that health services are of particular importance to many people within the disability community who may require medications, as we discussed, or surgery, or may be more likely to go into the hospital.

In our legislation, there has always been a strong, at least theoretical, guarantee of equal access for persons with disabilities, particularly under the charter, the Human Rights Code and the Canada Health Act. We believe that as well, besides being enshrined in legislation, there is and will continue to be widespread public support for the principle of equal access to the health care system for all.

We believe, however, that there are major concerns raised for this principle by Bill 26. I believe many seniors' groups have addressed the proposed subsections 11(4) and 11(5) of the amended Health Insurance Act which, would authorize age to be used as a criterion in definition of "insured services." This would be under the regulation. The group believes this is discriminatory, that regulations which will exclude people from essential health services on a blanket basis on the basis of age are discriminatory both as a matter of policy and also in law. In the Roberts case, which was litigated by our office, the Ontario Court of Appeal ruled that an arbitrary age restriction on health care services, in that case the assistive devices program, violated the charter and the Human Rights Code.

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To the extent that the new legislation creates a two-tier system, obviously when something is excluded from insured services it's available only to those who can pay privately. We're concerned that people with the lowest incomes and the highest needs will not be able to pay and won't get the services.

We are particularly concerned, as mentioned in paragraph 16, about the very broad discretion given to the

general manager of the health insurance plan under section 18. There's an authority to refuse to pay for services that are "not medically or therapeutically necessary." Unless I'm mistaken, that phrase is not defined, but that is the phrase that is commonly referred to in very difficult decisions about whether treatment should be given to those with serious disabilities or major illnesses.

We are concerned that if payment is not guaranteed, the ultimate effect may be to deny services to newborns with multiple disabilities, to those who can only be assisted by new or emerging treatments, and to those who may require only palliative care. Certainly we hope this would not be a direction to go in. But we see there may be a concern, say, if you could envisage a family at the hospital with a loved one where one of these very, very difficult decisions has to be made. Now there'll be a new element: There'll be a concern on the part of the physicians that perhaps these services are not going to be funded, that perhaps they have to be in touch with the general manager.

I certainly hope we are not going in that direction, but the use of this language certainly suggests that now the health insurance plan will be involved in these cases through administrative guidelines. It won't just be the family and the physician and others like ethics committees and so on who will be involved; it'll be into a funding decision. Of course, in any area where the physician and hospital or other health service provider cannot be guaranteed payment, the alternative is either to delay the treatment or service until clarification or approval is received from the plan or, alternatively, to require the family or the individual to make some kind of indemnification or post security.

Basically, our group would like to see a much larger role for consumers in the restructuring envisaged by Bill 26. Important decisions are going to be made about the restructuring of the health care system, involving people who need specialized medical help such as: Where is there going to be kidney treatment? Where will the treatments be for sight and hearing loss, for AIDS and HIV, for MS, for cystic fibrosis and on and on?

We believe there should be a formalized role for those groups in determining what will be an insured service, in decisions about physician allocations, so there will be some input around expertise of physicians who can address these problems and of course in decisions about the information needs of government, which Scott has already addressed.

Finally, we'll just touch very generally on the so-called MUSH sector, which is facing significant cutbacks, only to relate our issues to some which have been raised, I'm sure, and will be raised by municipalities, hospitals, school boards, colleges and universities.

The concern is basically that the accommodations made within these essential services for persons with disabilities may be seen as optional and may be discontinued. We believe we are already seeing this and may see more in future. We've touched on the hospitals and their ability to charge. I believe it's even envisaged by the regulation that they may charge for insured services if the regulations permit it.

In the municipal sector, some municipalities have already restricted or increased the payment for parallel transit or accessible transit. We have seen a pattern over several years of the special-needs programs, supplementary aid and special assistance being reduced or eliminated in municipalities because they're not legally required to provide it. That's the program people go to if they have, say, special dental needs that are not covered by the family benefits program, if they're on social assistance, or if they're not on social assistance but are otherwise in need. Municipalities are getting out of this area.

Within the educational sector we have seen examples where school boards are downsizing by eliminating "special education" services. We think they're just education services, such as educational assistants, speech language experts and psychologists. We know there are concerns among disabled students about the future of the disabled students' centres at colleges and universities,

which have made so much difference.

Just to return to the point Scott made, is there really a cost saving if you go backwards on the accessibility of the education system? Many persons with disabilities have been assisted to be gainfully employed by these accommodations. If we move in the wrong direction, does that mean in the long term that more people will be on

public support? We think that's the case.

The point we always try to make is that we are not saying that government should just spend without regard to the cost, but that expending what is necessary to keep moving in the mainstreaming direction, to keep moving towards employment for people and to support families whose disabled family member is at home, in the long run makes economic sense as well as human sense. We're hoping, obviously, that some of the provisions we have questioned in Bill 26 will be reconsidered.

Thank you. Do you have anything to add, Scott?

Mr Seiler: No. Maybe we can get some questions.

The Chair: We have about four minutes each for

questions, beginning with Ms Lankin.

Ms Lankin: Thank you so much for your presentation. I have to tell you, as I was listening to you and as I was going through your presentation, you raise issues that I know this committee has not heard before and that we haven't dealt with. That's happened a couple of times today. I am personally feeling as a member of this committee, as we just keep rolling on, one submission after another, I don't know how to be able to process this and to have the time to work with groups like yours to determine what the appropriate amendments are.

Basically, the powers provided to the minister are so broad and so unrestricted that all the nature of the concerns you raise are very real concerns, yet there is no way in the legislation to address that, unless we start from scratch and start working through putting the appropriate language of restrictions in place. That's not going to happen unless the government members of this committee support our request to try and get this bill broken up so we can deal with it in manageable pieces.

Bad laws get passed when you ram them through like this, and your presentation, along with many other very good ones—but yours speaks most eloquently to the shortcomings in this legislation and the dangers and pitfalls that are there. For example, I was flipping through trying to look and understand the point you were raising about age discrimination, and that was raised by a group yesterday. It was pointed out to me by a member of the media, actually, which is helpful as we're all scurrying through looking at this, that there was a provision in the old legislation that allowed them, by regulation, to prescribe certain services by age. But it's now been rewritten and put into the middle of a section and I can't tell, even cross-referencing it to the old legislation, which I have here, without some legal assistance, whether this confers new powers or different powers or how those powers were used before.

1650

This one little section has, in my mind, immediately 10 questions, not the least of which is, how does it relate to the court decision dealing with assistive devices and was the section, as it was written, struck down? Does this mean it has now been rewritten so that it is going to stand the test of court or, in fact, should we be taking it out all together because it was dealt with by a court in other circumstances, under assistive devices, perhaps different language—I don't know—than insured services?

Your presentation has raised a whole range of questions. I don't have a specific question for you. I just want to say that I think you have, as much as many other groups, or perhaps more, made the case for the debate we are going to have at 5 o'clock about the motion to extend

these hearings and to break these bills up.

If you have any comments on that that you want to give to the government members on this committee, because they will carry the balance of votes here, then I would appreciate your doing that.

The Chair: Unfortunately, Ms Lankin, you didn't

leave them any time for any comments.

Ms Lankin: Oh, sorry.

The Chair: For the government, Mr Clement.

Mr Clement: I enjoyed your presentation. You got me thinking that I had misread the legislation the first time around when it came to services deemed by the general manager to be not medically or therapeutically necessary, so I was scrambling around a bit and I apologize. But I reread the previous legislation as well as the new legislation and the only change—under the old legislation the general manager had the authority to refer to the Medical Review Committee anything that he deemed or she deemed to be services that were not medically necessary, based on reasonable grounds. We've added, "medically or therapeutically necessary." That's one change. I don't think much turns on that except toperhaps even if it does—to expand it, that's fine by me, if there are cases of fraud and abuse. The only changeshe doesn't have to, or she doesn't have to, refer it to the Medical Review Committee, which takes five years, to get through anywhere.

Mrs McLeod: A small change.

Mr Clement: Excuse me, I have the floor. He or she has the opportunity to deal with it forthwith, which I think, in terms of physicians, gives them the comfort to know that it's going to be dealt with rather than hanging like a sword of Damocles over them for four or five years.

I just wanted you to know that it was under the previous legislation this power existed to review. What we've done is allowed it to be dealt with more simply, more equitably and faster than the previous legislation, but the power was there. So your concern that there are new, undemocratic powers, I think is misplaced. Would you like to respond to that?

Mr Beatty: Well, we didn't have time obviously to compare it in detail with the existing legislation, but it still essentially gives a broad discretion to the general manager with no guidelines at all as to how that is going

to be addressed.

Mr Clement: I don't mean to put you on the spot. I'm sorry.

Mr Beatty: I have to say honestly we didn't have a chance to review the previous legislation, but it still seems to be unacceptable discretion notwithstanding that

it may have been there before.

Mr Clement: That's fair and you're entitled to your opinion. Can I just ask a brief question about the Ontario drug benefit payments, which you raised at the outset of your presentation? What we have done through the copayment is also announced the extension through Trillium of drug benefit plans to 140,000 more people. Now, obviously, that's a quid pro quo. Governments have tried to be all things to all people for so long that we've got into this financial mess, so we wanted to be fiscally prudent about it. But how do you feel about extending the benefits to 140,000 more people under Trillium? Isn't that a good public policy move?

Mr Seiler: Yes, it is a very good public policy move, but at the same time, it's a very poor public policy move to end up with a restrictive program. It will end up with nobody using it because people will have to make choices

between the medication or eating.

Mr Clement: Well, I disagree with that interpretation. Mr Seiler: And that is the case even now, before, because there are lots of things that are not covered by the Ontario drug benefit plan that people are needing to buy on a constant basis and because these things aren't covered, they're paying out of their pocket, where at one time they were covered. So the extra costs are mounting for people on disability pensions and eventually they will hit the wall. They will not be able to afford it and it will mean a choice between medication and/or rent or food.

This has been shown in other jurisdictions where these payments have been put into place. Alberta, Saskatchewan, British Columbia have all had similar experiences to what I'm talking about. People are asked to make those choices and people are making those choices. They're ending up in the hospitals and more money is

being spent providing care in hospitals.

Ms Castrilli: I have to tell you, yours is a wonderful presentation. I can't remember when I've agreed more with something that has been said in a presentation. When you say you believe in a society that promotes an approach that can be cost-effective and fair and compassionate, which I think is the thrust of your presentation, it's exactly the kind of thing we've been talking about.

I have to take issue with Mr Clement yet again today. I apologize. I hope he doesn't take this personally, but he

seems to misinterpret things and unfortunately he's done it as well this time.

The new proposed section 18 of the Health Insurance Act, as you rightly pointed out, gives in fact the general manager incredible powers. That's a far cry from what was under the previous legislation, which gave some powers to a Medical Review Committee which is made up of professionals who understand the subject matter and not a bureaucrat. What we're talking about is bureaucratic intrusion in a sector which is very delicate, which is an enormous change—an absolutely enormous change. It isn't just a little change, nor is it a little change to say that services can be refused because they're not medically or therapeutically necessary. That is again a very large change and I take issue with that.

Let me ask you a question, since I'm delighted to have a lawyer before us. We don't often get lawyers in this committee.

Mr Clement: For free.

Ms Castrilli: Well, you know what they say about free legal advice.

You made a point in your presentation that there are provisions of the bill which may in fact infringe the Charter of Rights, the Ontario Human Rights Code and the Canada Health Act. I wonder if you might elaborate on that just a little bit.

Mr Beatty: Essentially, what there is in the bill is the provision about making the regulations with an age restriction on certain services. I guess whether it would actually violate the charter or the Human Rights Code would depend on how it was drafted and what it said.

I think in the Roberts case, which incidentally was not specific—the assistive devices program isn't under the Health Insurance Act, so it didn't specifically deal with this legislation, but essentially what was objected to was using prohibited ground of discrimination as a criterion.

I know there is some concern among seniors, because many in the health care field have put forward that over a certain age you don't get a bypass and that kind of thing. I think there certainly would be a concern if rules of that type were enforced. Again, Mr Clement has pointed out that there was a provision like that before. I didn't have a chance to research that, but I'm not aware of any regulation being passed pursuant to that before, or any rules being implemented to say over a certain age you don't get such and such service.

The Chair: Thank you, Mr Seiler and Mr Beatty. We appreciate your attendance and your interest in our process and your presentation. Have a good evening.

When we first got together this afternoon, we deferred a motion that had been put forward by Ms Lankin until this evening, until the public presentations were over. I will read the motion.

1700

"Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available;

"Moved by Frances Lankin:

"I move that this committee recommends to the government House leader that when the House returns on January 29, 1996, that the order with respect to Bill 26 be

amended and that the bill be returned to the standing committee on general government so that further public hearings can be arranged; and further, that this committee recommends to the government House leader, based on the submissions to the committee to date, that Bill 26 be separated into several bills to allow the public an opportunity to adequately analyse the bill. Further, that this committee recommends that the three House leaders meet as soon as possible to discuss this issue."

If I could just make a couple of comments before inviting Ms Lankin to speak, our next presenters are here at 6 o'clock, so I would like to have some agreement that we would allow each person who would choose to speak one opportunity to speak, other than Ms Lankin, who will be allowed to wrap up at the end. Do I have approval for

that from everybody? Okay. Ms Lankin.

Ms Lankin: Mr Chair, may I just make one technical correction of the record, that the motion should read "I move that this subcommittee," and all references to "committee" should be "subcommittee." I believe that we're a subcommittee, aren't we, or no, they are?

The Chair: We are the committee. Ms Lankin: So we're okay on that?

The Chair: Right.

Ms Lankin: Okay, good. We're all divided.

Thank you very much. I moved this motion for a number of reasons. I believe profoundly, and have since the day this bill was introduced, in the manner in which it was introduced, and since having a chance to look at it, that this is a bill that is unmanageable for appropriate democratic analysis, input, debate and passage. I believe that this bill has strung together very, very important public policy areas which the public has a right to have knowledge of, to have understanding of and to have input into. That, of course, led to the opposition parties' actions to demand of the government public hearings, and of course that is history. Negotiations took place, and a package was put together; not one that we were happy with but one that we were prepared to live with and to try and make work.

As we entered into the hearings this week-and I remind people this is only day three—we have heard from virtually every group in this subcommittee, and many groups in the other subcommittee that have come forward, a plea for the government to break this bill up into manageable pieces and to allow the appropriate time for groups and individuals to analyse, to understand, to have input into and to have a legislative debate and process that serves the public interest. There's a lot of language in the health bills here about "in the public interest." Let me tell you that I don't believe the way in which this bill is being proceeded with is in the public interest.

I was reviewing the Hansards of the last couple of days, of groups like the Toronto Psychoanalytic Society, the College of Physicians and Surgeons of Ontario, South Riverdale Community Health Centre, Survivors of Medical Abuse, Older Women's Network, Ontario Coalition of Senior Citizens' Organizations, the OMA, LAMP, on and on, and many groups you've heard today. I don't need to highlight all of those groups, because you heard them, this committee, the members of this committee heard them make a plea for this bill to be broken up and this bill to be dealt with in a time and fashion that

allows for appropriate debate.

I had what I think was an incredible speech, in my mind, prepared to give on this motion, which quoted extensively from Hansard, quotes from Mr Wilson when he was Health critic in reference to a 13-page bill called Bill 50, as opposed to the 211 pages in Bill 26, in which he talked about it being rammed through and undemocratic. You would have loved it. It would have been great theatre. I'm not going to do that, because I personally am quite overwhelmed with what's happened this afternoon, and I want to share that with you.

Since I moved this motion at noon, letters have started to come in. Don't believe for a moment that people aren't watching what is going on here. I heard some government members saying when a group didn't show: "I guess they're not interested. I guess there isn't really that much interest." One of the groups that cancelled today cancelled because the notice was so short they couldn't get their brief together and they couldn't get their people together to get here at the time slot that was available.

We only passed this bill, second reading, last week. We haven't given people the time to prepare. Many groups have done yeoman service in getting their stuff together and getting here. But groups and individuals have different levels of resources in being able to do that, and we are cutting out many voices of Ontarians by

proceeding in this manner.

But people are watching, and I want to share this with you, a note that the OMA supports breaking up Bill 126 and the extension of the hearings.

There's a letter to the Chair which I have a copy of: "On behalf of the Chinese Canadian National Council, I am writing in support of the motion put forward by Frances Lankin, MPP, Beaches-Woodbine, concerning Bill 26.

"Given the extensive scope of Bill 26, it is critical that the Ontario public be allowed ample opportunities to understand the proposed legislation and to provide input."

It continues on. I won't read all of these into the record because that would take the whole hour.

From Daniel Kushner, a fax: "I strongly support your motion to subdivide Bill 26 into manageable and coherent pieces in order to allow debate and discussion of this sweeping and complex legislative proposal."

From the National Action Committee on the Status of Women: "On behalf of NAC"—this is to the committee— "I would like to express our support for the motion being put forward...regarding public hearings on Bill 26." They go on to offer some comments on the bill.

"Dear Ms Lankin:

"It has come to the attention of the AIDS Committee of Toronto that you have proposed an alternative approach to managing the many important components of Bill 26.

"In my deputation December 21 on behalf of ACT I am prepared to state our concerns about the approach that is being taken with Bill 26.

"We are definitely in support of a process that allows

sufficient time."

This is from a number of councillors at city council, and addressed to me:

"This is to support your motion to have the standing committee on general government conduct further public hearings in the city of Toronto on Bill 26 as well as to separate Bill 26 into several bills to allow for better public understanding and debate.

"Toronto city council passed both of these resolutions on 18 December...as stated in the city of Toronto submission."

That's signed by a number of councillors and the mayor of the city of Toronto.

From the Ontario Professional Fire Fighters Association: "Due to the sweeping powers of Bill 26 and its impact on the level of services that the citizens in the province of Ontario have come to expect, the Ontario Professional Fire Fighters Association urge you to support the motion that has been tabled by Frances Lankin."

Another letter from UFCW, who were here today indicating that they had made that pitch to the committee and that they support the motion and they also support the motion that the three House leaders meet as soon as possible to discuss this important issue.

A fax from Carol Kushner, who is a health policy analyst: "I fully support your motion to break up Bill 25 into smaller acts to allow for proper debate and discussion. Given such sweeping proposals for change, it is particularly essential for government to demonstrate respect for democracy in this respect."

From the Ontario Teachers' Federation, signed by the president and addressed to me:

"I have heard about your efforts in the standing committee on general government urging the committee to request that Bill 26 be separated....

"I hope that the members of the committee exercise their democratic responsibilities appropriately and support your motion."

From the Ontario Coalition of Senior Citizens' Organizations, again addressed to me, a letter of support. They applaud the move to request more time for public hearings and changes to Bill 26.

This is a letter addressed to the committee from the president of the Ontario Psychiatric Association:

"The OPA is looking forward to appearing before you tomorrow. We understand, however, that many interested parties have not been so fortunate" as to be able to have more hearings. "We believe that the government should extend the hearing schedule.... We also believe Bill 26 is very unwieldy as presented and we agree with those who have recommended that the bill be subdivided."

They keep coming, as we're speaking.

The Ontario Nurses' Association agrees that more time is necessary before Bill 26 can be properly analysed, and "fully support your motion that the bill be separated...and there be further opportunity."

Parkdale Community Legal Services, addressed to the clerks of the committee and indicating a lot of reasons that "We wholeheartedly support Ms Lankin's motion and urge the government to respect the concerns which the motion represents."

The Alliance of Seniors to Protect Canada's Social Programs "strongly supports Frances Lankin's motion that

Bill 26 be broken into separate bills, each duly debated and with public consultation prior to enactment."

The Association of General Hospital Psychiatric Services, signed by the president, an open letter to this standing committee. They've been here and they've presented. They would request, however, that there be more time allowed to schedule extended hearings and to allow for more thought and feedback on a large number of issues. They also support the bill being divided.

1710

The Amalgamated Transit Union, Canadian council, signed by the Canadian director: In here, they're expressing their strong concern about the speed with this legislation is being pushed through and asking: "I appeal to all members of the standing committee on general government to separate the bills and give the public more time to understand and digest the changes that are being considered."

From the Equal Pay Coalition, a spokesperson from that coalition. This is interesting because this highlights what happens when you put a whole bunch of bills together:

"The Equal Pay Coalition, a coalition of 39 organizations in Ontario that seeks to ensure equal pay for work of equal value, supports Frances Lankin's motion that Bill 26 be separated into separate bills to allow the public to adequately analyse the bill.

"The Equal Pay Coalition is deeply concerned about the government's plan to repeal part of the Pay Equity Act that allowed thousands of women in all-female workplaces to achieve pay equity.

"While the health-related sections of Bill 26 have been highly publicized, other sections of the bill dealing with issues such as pay equity have been virtually ignored.

"We urge this government, as a matter of fairness, to separate the bill and allow more time for public input."

This is from the chairperson of the Church in Society Committee, Toronto Conference, United Church of Canada, and is to support the motion to split the bill. It says, "This bill as it stands touches on such a variety of subjects that it is virtually impossible to deal with it in any intelligent or consistent manner in either the Legislature or by the public." Please split the bill.

From the Older Women's Network: They recommend that the bill be split and that there be amendments and that there be proper public consultation.

The Canadian Environmental Law Association: This is a very long letter dealing with various sections of the bill, but the bottom line is that they support the motion that will be brought today requesting Bill 26 be separated and allowing public debate.

Metro Toronto Chinese and Southeast Asian Legal Clinic: Support for the motion being put forward.

Debby Copes, who's a well-known family doctor: "I strongly support your motion to have Bill 26 broken up into smaller acts which would each be given the proper debate and discussion."

Michael Rachlis, who was here, who indicated that, has also sent a letter in on this.

This is to the standing committee. This is one you might find interesting. I read the one from city councillors signed by the mayor of Toronto. This is from Metro,

signed by Jack Layton, but it refers to debate today. It

says:

"Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available, please be advised that today the council of the municipality of Metropolitan Toronto passed the following motion:

"Metropolitan council, in its brief to the Legislature, recommend that the present omnibus bill be divided and the various sections be submitted as separate bills, with

adequate time for public hearings."

They continue to come.

Dr Weisbred, a Conservative voter, urged "further time to adequately consider the ramifications of Bill 26."

Mr Chair, I'm sure there will be more that will be arriving as we talk on this. I don't know if I'll have a chance to read those names in. But it was only noon I moved that motion and people are responding and asking this committee to take seriously the requests of the many, many groups that have come forward here. I just want for the record to let people know what has happened in terms

of requests to present before the committee.

There are currently, as of this morning—not currently; more calls have come in today. But as of this morning, there were 232 requests for the 188 spots here in Toronto. Yesterday morning, you might remember, for out-of-town there were 316 requests for the 274 places. This morning, there were 396 requests, so another 80 came in yesterday afternoon for the 274 places. That's 628 requests for the 462 places. We haven't even placed the advertisements yet for the out-of-town hearings. Please listen to the fact that people want an opportunity to understand this bill, to speak to this bill and to deal with it in manageable pieces. I urge the government members of the committee to support the motion that I have put forward and to speak to their caucus and to speak to their government House leader to do what is the right thing in the public interest.

The Chair: Keeping up with the rotation that we've been following, we'll go over to the government.

Mr Clement: I'm told by the House leader that the government and the Legislative Assembly through which this committee works have given this legislation more committee time than any other legislation in the previous two parliaments. I might recall for the honourable member, Mrs Lankin, that the omnibus Bill 175, as proposed by the NDP when they were in power, amended 139 statutes, 14 different ministries, and there was absolutely no committee time—none.

To date, for this committee, we have been the recipients of at least 60—well, at least 50—oral submissions to date, and more will be forthcoming in Toronto. We are travelling across the province from Windsor to Timmins in the scope of two weeks in January. This bill, Bill 26, has been given a total of 220 hours at committee. If we were operating on normal committee time, that would be 43 weeks of committee time to review this piece of legislation.

Mr Chairman, we have said from the beginning, from the government side, that we welcome all submissions to this committee. I've been on the record at this committee welcoming amendments, welcoming input either of the verbal variety or of the written variety. We are listening to all suggestions. We are open to changes. We want to approve this legislation as well. And written submissions will be ongoing and received by this committee on an ongoing basis.

If I can quote the leader of the official opposition, Mrs McLeod, on December 8 in the Thunder Bay Times News, she said: "We now have a substantial amount of time to look at this bill," and for once I agree with her.

I might add, Mr Chairman, for the record, as you know and as Mrs Lankin knows, the committee time for Bill 26 was negotiated with the two opposition parties and the government. On the government side, we are standing by the agreement that was reached by the three parties. We

are not going to go back on our word.

And, Mr Chair, if I can wrap up, from our perspective we are giving every opportunity for the public to have their say. That's what the committee process is all about. That was something we were always committed to, and I'm looking forward to moving on so that we can actually hear from the public rather than participating in what I see, quite frankly, as an opportunity for the opposition to gain some points, when we know we have reached an agreement that they felt comfortable with a week ago and we are in fact hearing from people and allowing the people from all over Ontario to have their say on this most important bill.

Mrs Caplan: I'm going to support the motion that is on the floor because I think it is reasonable. As you know, I attempted to table a very similar motion that was ruled out of order, and we worked with the Clerk's office to develop an alternative one. I believe that we have heard in the last two days far more concern. We have heard concern about the fact that people feel there is inadequate time to even develop proposals and recom-

mendations and amendments.

I had a phone call today from presenters who were here yesterday who are saying they are all of a sudden starting to identify issues in this bill as they listen to other presentations, things that they had not contemplated. Mr Chairman, many of the presenters who have presented focused on their own area of expertise in the bill and, as we heard this afternoon from the Drug Quality and Therapeutics Committee, for example, they have not considered any of the other implications outside of that very narrow range.

The thing I have found most frankly disturbing, and that's the word I'm going to use, very disturbing, is that we have had such an overwhelming response from people who want to be heard that cannot be accommodated. I don't think that could have been contemplated even a week ago when an agreement was reached that would allow the bill to proceed. The purpose of public hearings is to listen, and if there are concerns raised and if people are saying, "I haven't had or don't feel I will have an opportunity to come before committee and I want that opportunity," then I think the committee that is hearing all of this—and we're hearing it in the form of representations that are being made to the committee, in people who are contacting the clerk to say, "We want to come and are being told there's no space for us to make

representation," people who are writing and faxing members to say: "Please help us get time to come before this committee. We are just now aware of what this bill contains. We are very concerned about this and we are feeling that democracy is not being well served if we don't have the opportunity to come before committee." 1720

The motion that is before this committee is one that asks the House leaders to consider additional time for this committee. That is not an unusual request. House leaders in their best judgment make decisions about how much time they think is necessary, and I'll give you an example. Bill 19, which contains three distinct sections, one dealing with consent to treatment, one dealing with repeal of the Advocacy Act and one dealing with substitute decision laws—that package of bills, very important— is receiving three weeks of public hearings, one week in Toronto and two weeks across the province, and a full week of clause-by-clause. That's four weeks of committee time on that one bill.

The member from the government benches, Mr Clement, raises how other omnibus legislation has been dealt with, and I think that's important, though not particularly relevant, because we've never seen an omnibus bill of this size and scope. But the bill that he points out, Bill 175, I was here and I rose to object, frankly, to having contentious issues contained in an omnibus bill which traditionally has been used for housekeeping.

Let me tell you what happened with that piece of legislation, Mr Clement. That legislation was tabled in the spring session of the Legislature and it did amend 139 statutes in 14 different ministries. Concerns were raised about some of the aspects of that bill, and the NDP government—and I was very critical at the time; you can read the Hansard—agreed to remove everything from that bill that was contentious, everything in that bill that anyone had a concern about.

They did that. They severed those parts of the bill that were deemed contentious, and the bill became a house-keeping bill, as omnibus bills traditionally have been. That's the reason that Bill 175 was passed without any committee time. It was passed because everybody in the House said: "This is housekeeping. It doesn't require public hearings because there is nothing contentious in this bill."

To use Bill 175 as an example of why this bill doesn't need further scrutiny is unfair. I'm not going to question the motivations; the member was not here. But Mr Eves was here and Mr Harris was here and Mr Wilson was here, and they spoke in support of having appropriate scrutiny for issues that were contentious.

What we have heard from every group that has come before us, whether they support the bill or not, is evidence that Bill 26 contains many, many issues which are considered controversial and contentious. Certainly we have not heard a broad consensus. We have not heard anyone that I can recall who came forward who didn't question some aspect of the bill. We also have not heard from any group that said, "I wouldn't like more time to look at some of the other areas, because I haven't a chance to look at it."

All that set aside, regardless of the support that's out there for splitting the bill and reviewing it individually, let's set that aside for a minute. I hope the House leaders will consider that and the government will agree to do that, because that's the right and proper thing. But what this committee is saying is that we believe that democracy should not be denied and that when you have—and I'm going to repeat the numbers again because they are growing every moment that we sit here. There are 232 people who have applied to be heard before this committee here in Toronto alone.

There was no advertisement of these hearings. People were asked to prepare extensive briefs on a moment's notice. Many of them have had difficulty in doing that and we have had requests from those who have been unable to have their briefs prepared if they could have some additional time to come before the committee and to do that.

All of the slots are presently filled for committee time here in Toronto and we have had 232 groups who have requested it and, as I've said, there are more coming in to request additional time in Toronto. We have 274 slots available in the 11 cities across the province that this committee will be travelling to. We have already had 396 requests and not one newspaper ad has been put in the papers alerting people to the fact that this bill is being debated at committee.

Surely the government members, and particularly the backbenchers, who came to this Legislature to see thorough and adequate debate given to issues of concern to their constituents, would want to allow their constituents—not just mine, their constituents—across this province—and I remind them that they have over 80 seats in this Legislature and they can do as they please, but it's their constituents as well as mine, organizations who are situated across this province that are making the request for an opportunity to be heard by this committee. I don't think that's an unreasonable request. To deny them that is a denial of democracy, and I believe it's a denial of their right to participate in the democratic process.

We've heard representations of the feelings of frustration and the sense of powerlessness that people feel when they are denied that opportunity to be heard. In fact, Mr Chairman, I was very careful this morning when I placed my motion to say that we recognize that there may be some portions of this bill that the government must have by January 29 and we are prepared to live up to the commitment that House meet on that day.

But the House leaders could accomplish the request of people who want to speak to this massive bill, which has numerous controversial issues that people are just beginning to realize the consequences of and the implications of, people who want to come forward and give their advice and suggestions, people who would like to see this bill split, I'll grant you that, but people who want to be heard.

All this amendment does is say, "Don't compare this to a Bill 175-that's not fair—but look at this bill in its complexity and listen to the hundreds of people, hundreds of organizations, hundreds of individuals, who are being denied the opportunity to be heard because of your desire for unnecessary speed." And I say "unnecessary." We're

prepared to deal with those things that must be dealt with on an urgent basis, but many, many of the features of this

bill do not require that speed.

Give people the opportunity to assert their democratic rights by participating in democracy. If you deny that, then you diminish the work that we all do here. I would ask the members of the government bench to seriously consider why they were elected to this place and what they feel their role is, if it is not to listen to the people of this province who simply want to come forward and be heard. You are the members of this committee and you know of the backlog and the inability of this committee to accommodate the public who want to be heard. I ask you not to vote against this motion that is on the floor. 1730

Ms Lankin: I believe Mr Rae has a few comments before I wrap up.

The Chair: Mr Rae, welcome to our committee.

Mr Bob Rae (York South): It's nice to be here once again. The main thing I want to say to committee members is that the trouble with this bill is that it tries to do such an extraordinary amount and it was drafted in such haste. There are lots of signs of this and lots of signs that the real implications of this legislation have not been adequately analysed. I would just say that, from my experience as Premier sitting around a cabinet table, there are many instances where you're working under a timetable that's not entirely realistic and where, in this case, you've got an extraordinary number of things that the government is trying to do.

The things we can do that need to be done quickly, could be quite easily and readily severed. The sections dealing with revenue, the sections dealing, for example, with the borrowing authority, the sections that deal with the needs of the government of an administrative kind can be very quickly severed by agreement and could then be dealt with quickly by the House. But I think if people don't believe that there's a problem with some of the things we're being asked to do, then I just don't think

they've considered the bill.

The public is inadequately informed still. The bill is referred to as an omnibus bill. They don't know what that means. Various professions are only just now becoming aware of its implications. I find it ironic, when Mr Clement was such an ardent opponent of quotas, that this actually is a quota bill; the other one wasn't. Employment equity was not a quota bill; this actually is a quota bill. This is the first time in the history of the province that the government of Ontario has given the Minister of Health and the Ministry of Health the power to impose a quota on doctors, where they will practise and how they will practise. This has never been done before.

We're going to see an exodus of doctors from this province on an accelerated basis, starting with our youngest doctors. Just by way of parenthesis, there are more women now graduating from university and medical school than ever before in the history of the province. Those women are going to be leaving us for jurisdictions where they can practise, and the implications of this have

not be adequately understood.

I really do believe that the committee members on the opposite side have an opportunity to think this through

very carefully and to really go back to the government. All we're asking for is an opportunity to speak to the House leaders and say, "You've got to understand what this does and where you're going to get into trouble and where we are all going to get into trouble as a result of the steps that are being taken here."

My view would be that this proposal, which is saying, "Let's take a deep breath here, let's recognize the problem, let's understand the depth of emotion that underlies the opposition to this," doesn't come from political partisans of one stripe or another. It doesn't come from one particular group in our society. It comes from an astonishing array of people who suddenly realize that they're being caught up in a change of their way of life that they had not anticipated on the basis of the political promises that were part of the last election.

I would hope very much that the government members would think through very carefully about the importance of accepting the proposal that my colleague Frances Lankin has made. I think it's a very sensible proposal. It's one that relates to the practical problem which the

committee now has.

The government is creating a huge problem for itself, I would argue, even potentially legally, by denying some people the right to be heard and then turning around and passing legislation which affects the rights of those people. I think the government is going to find itself in a problem with respect to the passage of this legislation because one of the arguments that will immediately be used—and this legislation, if passed in its current form, will cause more litigation and more lawsuits and more legal battles than any legislation that has ever been passed in recent memory by the Legislature.

One of the things the committee had better consider is, given the fact that's going to happen, whether it might not be a good idea to hear the other side. You've now got yourself in a jackpot where you can't possibly hear the other side, because the number of people who want to be heard, those views are not going to be able to be considered, and you haven't even started the advertising process. As soon as you start the advertising process, you're going to find the numbers of people who want to appear compared to the number of people who can will be completely out of control. That's the problem that you've got.

I think that what Frances's motion tries to do is to say, let's recognize the severity of this problem, and I think

it's a very sound motion.

The Chair: Thank you, Mr Rae. Any further comment from the government side? No? Ms Lankin, you get

a chance to wrap it up.

Ms Lankin: I will not take very long of the committee's time. I want to indicate that while we have been having this debate, two more letters of support have arrived. One is a letter addressed to Premier Harris and it's from the Association of Ontario Health Centres, which made a submission to this committee and is speaking on behalf of many member centres which have raised concerns regarding the limited time for the hearings, and they are supporting the motion. The other is from Elizabeth Greaves, who's the executive director of Dixon Hall, and she most eloquently says that she was

notified this morning at 9:30 of an opportunity to present this afternoon to the subcommittee meeting in the other

"While appreciative of the opportunity, we regret having inadequate time to examine the legislation and its implications.

"We are aware of many who felt silenced by the weight of the proposed legislation and the time frame for

"I fully support your motion to have bill 26 broken into sections, with time for true input from the many Ontarians who would respond."

May I say to members of the committee to look carefully at the wording of my motion. It is simply that this committee make a recommendation to the government House leader to look at splitting the bill and giving us more committee time to hear from people. You know you have heard from the individual groups and organizations that have been here. You've heard me read this into the record. You know the numbers before we've even placed the ads for out of town. It's overwhelming.

This is not the same, with all due respect, as the other pieces of legislation you cited, and neither is the overwhelming public response to participate, the overwhelming public concern. Don't run roughshod over that, and particularly don't do it at this committee level. Join with us on the committee at least in making a recommendation to the government House leader and let him meet with the other House leaders and see if they can work through a more appropriate way to deal with this bill, as I said earlier, one that is in the public interest.

The Chair: We've had the debate that we agreed to on all sides, so I will put the question. All those in favour of Ms Lankin's motion? All those opposed? The motion

Ms Lankin: Shame.

The Chair: We stand recessed until 6 o'clock.

The committee recessed from 1739 to 1810.

The Chair: Welcome back. We apologize for being a little bit late, but we ran a little long in the afternoon session and we had to get something to eat.

ONTARIO ASSOCIATION OF NON-PROFIT HOMES AND SERVICES FOR SENIORS

The Chair: Our first presenters this evening are the Ontario Association of Non-Profit Homes and Services for Seniors, Michael Klejman. Welcome, sir, to our committee. We appreciate you being here. You have a half-hour to use as you see fit. Questions will start with the government at the end of your presentation.

Mr Michael Klejman: Thank you very much, Mr Chairman, and a good afternoon, or early good evening, ladies and gentleman. My name is Michael Klejman. I'm the executive director of the Ontario Association of Non-Profit Homes and Services for Seniors, OANHSS. I'm pleased to have this opportunity to address the committee. At the outset, let me just say a few words about the association, although I think a number of you are probably familiar with us.

The Ontario Association of Non-Profit Homes and Services for Seniors represents municipal and charitable homes for the aged, non-profit nursing homes, seniors' apartments, seniors' supportive housing settings and agencies that provide outreach services to seniors who are living independently. In all, our 300 members serve about 10% of Ontario's seniors and employ over 22,000 people.

At the outset, let me say that we continue to accept the government's commitment that the current level of support for health services in Ontario will be maintained. The period of change that Bill 26 triggers is unavoidable. It is indeed tragic that the tackling of fiscal crisis is intertwined with the health restructuring initiative. It is difficult sometimes, if not impossible, to distinguish between what is purely cost-cutting and what is a part of a painful but probably necessary process of change in the health sector.

Bill 26 is generally accepted and supported by our members. We see in it much that puts forward the premise of accelerating the process of change. It is in this vein, therefore, that I will offer suggestions for amendments to certain sections of the bill that relate to health services

Before doing so, I would like to put forward to the committee several points that are rooted in our experience and knowledge of the long-term-care system. It was only a little over two years ago that long-term care was integrated under the Ministry of Health. We became a part of the health system and see long-term care today as one of the key elements in an effort to maintain quality health services without allowing its costs to go through the roof.

I will speak for a few minutes about long-term care.

Canada, as many industrialized countries, is and will continue to experience a rapid increase in its elderly population over the next several decades. This elderly population is a significant user of health care dollars, certainly well above the relative percentage it represents in the population as a whole. The most dramatic increase in population is expected in the oldest subgroup, those 85 years and older. This segment of the population places the most significant demands on the health system.

The historical evolution of health service utilization was driven by the availability of services and perceived sense of which services are the best. Whether we consider the demands on hospitals, physician services or prescription drugs, the pattern has been the same. We have heard many proponents advocating for a reduction in the number of so-called bed blockers in acute care beds, and just two years ago the chronic care role study reported that 50% of patients in chronic care beds need not be there. We have also heard many references to overutilization of drugs and physician services by the elderly.

Over the past decade, successive Ontario governments have promised and planned to reform the long-term-care system, seeing in it probably their only answer to the escalating costs. Since 1985, several initiatives have been launched, and all have pretty well fizzled before coming to full fruition. We are now in the midst of a major economic crisis, and our fears are growing that once again reform of long-term care may be delayed.

I would like to put forward a strong argument that this is precisely the time to accelerate the reform of long-term care. Before making this point, I want to offer an illustration why it is important to move with reforms. To make my point, I will make several assumptions, and I have to make these assumptions because our multibillion-dollar health system cannot generate specific data, so I'm relying on my own knowledge of the system.

I made an earlier reference to acute care beds being inappropriately occupied. I've seen estimates that about 5,000 hospital beds per year are inappropriately occupied. The 50% of chronic care beds suggested in the chronic care role study equates to about another 5,000 patients. If we assume that an average per diem in an acute care hospital is about \$300 and in a chronic care hospital \$200, and I believe both figures to be in the low end of their respective ranges, then over one year the province spends over \$900 million on these 10,000 beds. If the care for these individuals were to be provided in longterm care facilities, homes for the aged and nursing homes, the province would reduce the spending by \$547 million a year. Assuming that some of these 10,000 individuals can be supported in the community through enhanced homemaking and other visitation services, the potential for reduction in expenditures would be even

I must caution again that the above calculation is intended more as an illustration of the issue rather than a fully verified calculation, although I'd be prepared to

explain how I arrived at these figures.

Recommendations: OANHSS urges the government to make a strong commitment to reallocate resources to long-term care and to begin that process now so the impacts of changes in hospital and physician services are minimized. The current thrust to restructure the health care system needs to incorporate a clear indication of the alternative health services that we have to establish to enable the closing and reconfiguration of hospitals to take place. To follow the theme of best services for the best price, I believe that the following services must be strengthened now and the following specific measures need to be implemented:

(1) Strengthen and coordinate support services for the elderly living independently. This includes in-home services like homemaking, nursing and supportive housing.

(2) Enhance the funding per diem levels in homes for the aged and nursing homes while moving to a full levelof-care-based funding system.

(3) Develop specialized geriatric and psychogeriatric services that will be accessible to front-line services, both facility and community-based.

(4) Proceed speedily with implementation of a coordinated and integrated community long-term care system.

(5) Amend the user-pay system so that it's based on the ability to pay and takes into consideration both assets and income.

At this point, I'd like to speak to some sections of Bill 26 and put forward suggestions on amendments to the bill

Looking at part I of schedule F, amendments to the Ministry of Health Act, section 8 calls for the establishment of the Health Services Restructuring Commission. We believe that critical to the success of this commission, and particularly its local and geographical entities, will be the commission's actual makeup. It will be important that

the commission is comprised of a wide range of individuals who can bring both expertise and impartiality to the process.

We recommend therefore that a subsection be inserted that sets forth the expected makeup of the commission.

The hospital restructuring process appears to be a timelimited undertaking. The existence of the commission with powers as proposed in this bill is acceptable within the framework of the restructuring initiative but would be overly intrusive if it were to remain permanently in the act.

Therefore, we recommend that a subsection be added to set time limits on these expanded powers and to tie the existence of the commission to a fixed time frame.

Looking at the amendments to the Public Hospitals Act that are proposed in Bill 26, this provision proffers on the minister extraordinary powers. I, as a representative of corporations that operate as independent entities that are governed and have legal obligations, feel a bit threatened by such broad ministerial powers. As stated above, when there is a clear focus for these powers, we can accept them. In the long run, they may undermine the very foundation of the voluntary system.

We recommend therefore that a sunset clause for the expiry of section 6 and subsections 9(3), (5) and (6) be

incorporated into the bill.

We also note that references are made to the "in the public interest" provision, and it appears in several parts of the bill. While the intent is probably understood on a hypothetical basis, in practical terms it's most vague.

We recommend therefore that a set of definitions or appropriate indicators of what would constitute the public

interest be added.

Moving to the Independent Health Facilities Act, provisions of the amendments contained in this part raise some questions about the possible impact of opening up the health system to foreign-owned companies. This concern is partially based on two competing priorities that such companies are struggling with: One is maximization of net income; the other is the provision of best possible care. There may be merit in recognizing the prevailing interests of the public, and to maintain a high service standard in the independent health setting, some additional provisions to this section of the bill should be added.

1820

We recommend that section 21 of the bill, subsection 5(2) of the act, include specific references to indicators of quality services that have to be considered by the minister when deciding whether to authorize requests for proposals. Such indicators should include staff qualifications and professional certification. Similar provisions should be added to section 23.

Moving on to schedule G, part I, amendments to the Ontario Drug Benefit Act, provisions of this section of the bill introduce a prescription copayment system. We wish to raise a serious concern identified within our facility long-term-care sector.

About half of the 56,000 residents in homes for the aged and nursing homes have little or no income outside of the federal OAS and GIS pensions and Ontario Gains supplement. These individuals are left each month with,

at most, \$112. From this amount, they have to meet all of their personal needs in a facility. The impact of having to pay \$2 per prescription will be tremendous on these individuals, particularly if they require several prescriptions, and I should note that these prescriptions cannot be extended for long periods of time. They have to be frequently renewed.

We recommend, therefore, that either there be an exemption for residents in long-term-care facilities who have no income or assets beyond the \$112 a month from mandatory copayment or to allow appropriate funding to flow to facilities that provide care to these individuals.

In conclusion, the above recommendations for amending Bill 26 are offered within the framework of support to the initiative to restructure the health system.

This submission also drew your attention to the need to move quickly on the urgently needed changes in the long-term-care system that must go hand in hand with the restructuring effort to ensure that the health system in our province continues to be responsive to our needs and sets a standard envied by others.

The Chair: Thank you very much. We appreciate your presentation. We have about five minutes each for questions per party, starting with the government.

Mrs Johns: Thank you for your presentation. We appreciate your information. I'm interested in a few items you raised. With respect to long-term care and your statement basically that there needs to be a shifting of funds to long-term care, I would assume from that statement and from your comment about the restructuring of hospitals that you feel that restructuring of hospitals is necessary. Can you talk about that?

Mr Klejman: Yes. We see that as an integrated process. The discussion about the need to restructure, down-size hospitals, look at alternative methods of providing health services, has been in this province for a number of years. We agree with it. Some of our members operate hospitals in addition to operating long-term-care services, and they themselves have sought provisions to shift some of their own resources from the hospital operations to the long-term-care facilities. Unfortunately, current legislated and regulatory provisions prohibit them from doing that.

So we see the need to shift resources. We see the need to shift utilization from hospital services to services provided by other sectors within the health care system.

Mrs Johns: I'm also interested in your comments about the drug benefit plan. As I follow through in your numbers, I can see that there may be some hardship for people to be able to afford that. Have you run through a number of alternatives and kind of come up with it? I mean, obviously the status quo we have in drug benefits we can't stay with. We have to look for alternatives to move the health care on. Can you tell me what other alternatives there might be?

Mr Klejman: We actually are working with some Ministry of Health staff. We've had conference calls on this issue, looking at options, such as extended periods for prescriptions rather than limiting them to 30 days or 60 days, opening up so a prescription may last as long as the attending physician or a medical director of a facility feels that's an appropriate medication. We also have talked in the past about recycling methodology where

medication that isn't used can be recycled through some sort of a properly supervised process. We've looked too at some concepts about broadening the concept of pharmacies that may be affiliated with local hospitals taking under their umbrellas a number of long-term-care facilities so we find some sort of a way of cutting some costs in providing pharmacists' services.

We haven't come up with specific recommendations. There's been a period of maybe five to 10 days we've had to discuss it, but we certainly would be very eager to look at some alternatives. The impact right now is a

concern to us.

Mrs Johns: Thank you for your time. Do you want to ask him something?

Mr Clement: I'd like to ask Mr Klejman, from your perspective, is there a crisis in the health care system?

Mr Klejman: There is. There are two ways of looking at the crisis: One way of looking at the crisis is, if we leave the system as it is today, we don't have enough money to support it. If we try to change it, we have to then be consistent and comprehensive changing it. It doesn't solve the crisis to just deal with one side of the health system, dealing with utilization of physicians' services or hospital services. We have to, at the same time, offer alternative services, put in place alternative services.

We would very much like to see a three-year plan that talks about where the money that will be released from hospital restructuring or any other restructuring will go to plug the holes to pick up the demand that will be generated by maybe lost opportunities for people to use emergency rooms. They need to have alternatives to going to emergency wards in hospitals.

Mrs Caplan: Thank you very much. I appreciate it. It's nice to see you again, Michael. You've made some, I think, very important recommendations for amendments to the bill and I guess my first question is, did you have an opportunity to review this legislation with either the minister or someone from the ministry prior to their tabling it?

Mr Klejman: No, we have not.

Mrs Caplan: There was no consultation with you?

Mr Klejman: No. I can tell you I've been involved in this very enjoyable and challenging business for about eight years now and I have been—maybe not as strong as I should be—an advocate for pre-legislative tabling consultations with all the provincial governments that I've had the pleasure of working with. This is maybe a weakness I see now—our parliamentary process in this province, that we are faced with something that's legislatively at the last run.

Mrs Caplan: Have you received any assurance from the minister that the \$1.3 billion they are cutting from the transfer to hospitals is going to be reallocated to your sector? Have they given you an assurance, a time line, a plan as to how that's going to be accomplished?

Mr Klejman: I do recall a meeting with the minister that our association had in mid-October and we did walk away from that meeting with an impression that the funding will not disappear from our sector. That's why in our presentation today I said that we are going on faith,

believing the minister and the Premier that they'll live up to that commitment.

Mrs Caplan: So your expectation is that the \$1.3 billion that has been cut from hospitals will be reallocated in this coming budget for the health sector? That's your expectation?

Mr Klejman: Yes, we're looking basically at the plan. I don't know whether it's one year or two years, but look for a plan that talks about what will happen in the health system as an alternative to now our reliance on,

let's say, hospital services.

Mrs Caplan: Just to point out to you, because I think you should be cautious and aware, the economic statement that was tabled by the Minister of Finance, the whole \$1.3 billion was in the statement to do two things: one, to reduce the bottom line, which is this year's deficit expectation; and second, we believe that, given the tax cut implication which is going to cost them \$5 billion in revenue, in order for them to find that \$5 billion, they're going to have to take that from existing programs and while they promise to cut not one cent from the health sector, that \$1.3 billion from hospital transfers and from health, plus the \$225 million from the drug plan, plus the half a billion dollars, the reduction from \$7.8 billion to \$7.4 billion, is going to pay for that tax cut and their deficit reduction because they promised they would cut the income tax rate by 30% and balance the budget by the year 2001.

We're going to be watching very carefully to see where they're going to come up with the money to allocate to long-term care and to other parts of health. The rumour is out there, and from very good sources, that the intention is to break up the Ministry of Community and Social Services and move those programs like children's mental health and others into the Ministry of Health—I see you nod. Have you heard those same

rumours, Michael?

Mr Klejman: Yes, over coffee.

Mrs Caplan: Does that give you concern?

Mr Klejman: We have concerns. We certainly are concerned because we don't see now clear paths as to how the money will be retained. We like to have both a mix of some serious scepticism and blind faith in our approach to our role as an association. We also have the need to believe that we will not be dismantled as a health system, because I think the repercussions to that in this province are just horrendous. Anyone in their right mind I don't think can conceive of that kind of a revolution taking place.

Mrs Caplan: My last question— The Chair: Thanks, Mrs Caplan. Mrs Caplan: No more time?

The Chair: No; too bad. Ms Lankin.

Mrs Caplan: That sounded like real sincerity, Jack. Ms Lankin: Mr Chair, I wasn't even looking at you and I could hear that sincerity dripping as you said that.

Michael, it's good to see you again, and thank you for your presentation. I appreciate your cautious and constructive criticism and approach. It's in fact I think the way your association has always conducted itself in relationship to government and the ministry.

I think you have set forward some very specific amendments that I both understand and generally support. I want to talk about a couple of areas that perhaps you haven't touched on in amendments and see if you would be supportive if we were to put forward amendments of that nature.

You spoke about the need for the hospital restructuring to take place, and in fact it's more than that, it's health systems restructuring, but one particular focus is hospitals. I absolutely agree with that, and I absolutely agree that money needs to be reinvested into the community. I've said that more times than enough when I was minister and before and since.

Let me give you an example. Windsor: health systems restructuring, community process, DHC-led, lots of consensus, long process, agreement to go from four hospitals to two, a sense of what they needed to build up the other parts of the health system in the community, a commitment that the dollars saved, operating dollars from the hospital restructuring, downsizing, would go into that community and there would be the capital dollars available to physically change the hospital layout if it's needed.

This government has withdrawn its commitment to the community dollars being invested and the capital dollars. The Metropolitan Toronto District Health Council restructuring report—all of its recommendations are predicated on the reinvestment of those dollars in the community. There's been a suggestion that the legislation should be much clearer in terms of the roles and objectives of the restructuring commission, its relationship to DHCs and community consensus reports, and a formula for reinvestment of dollars saved through hospital restructuring. When you give the minister all of these powers that that in fact be reinvested in the health system to ensure that we don't create kind of gaps that Ms Caplan and I fear are going to happen-as that money, as it appears in the economic statement, is applied to the bottom line of the deficit and to pay for the tax cuts.

Would you be supportive of some kinds of recommendations that set out the powers of the commission, tie it to DHC reports, community consultation and see a formula for reinvestment of the dollars?

Mr Klejman: Without having a sense or seeing what the government is envisioning as the regulatory aspect of this legislation its—

Ms Lankin: You don't know either.

Mr Klejman: I think what I'd like to leave is an offer and certainly a willingness on our part to participate in the process that begins to set out the hows of implementing the restructuring. Certainly I have no reason to suspect from our contacts with both senior civil servants and the minister and parliamentary assistant that they are unwilling to talk with us about how to proceed through this process. I hope it starts soon, and if this legislation is a trigger for such planning and laying out groundwork, I think that—

Ms Lankin: Michael, does it not concern you that the commitment in Windsor for that reinvestment of the hospital dollars into the community has been withdrawn?

Mr Klejman: I wasn't aware of that. Yes, it does.

Ms Lankin: I hope your faith is well placed.

Mr Klejman: Any time we see money for alternatives to hospital services not being there, that, I think, is going to compound both the hospital situation and the services environment for those who are not in hospital.

The Chair: Thank you very much. We appreciate your interest in our process and your presentation tonight.

Mr Klejman: Thank you, and I admire your perseverance.

DAVENPORT-PERTH NEIGHBOURHOOD CENTRE

The Chair: Our next presenter is from the Davenport-Perth community health centre, Ruth Crammond. I hope I pronounced that right. Welcome to our committee. You have half an hour to use as you see fit and any time you allow for questions, we'll start with the Liberals. The floor is yours.

Ms Ruth Crammond: Thank you. I appreciate the opportunity to talk to you tonight. I'm sure this is a lengthy and somewhat drawn-out process for you, but we think the consultation process is really important.

Davenport-Perth Neighbourhood Centre is a multipurpose community organization that provides primary health care and social services in Toronto, so we're a community health centre and a neighbourhood centre. We provide programs for seniors, youth, children and adults in a low-income area of the city and we use a population health approach to provide services and programs that address not only the health problems of people as they present them, but also work to ameliorate conditions that cause bad health.

The area served by the centre is home to many immigrants and newcomers to Canada and many families with young children. The area has been very badly affected by the poor economy and the rate of unemployment is high. So this is not an unfamiliar situation to many of you, I'm sure.

The centre is run by a 21-member volunteer board of directors who are elected by neighbourhood residents. We work very hard to maintain community and local accountability at the centre and we think this is an important part of why our health services are effective. The structure ensures that the services remain accountable to residents. Voting members, for example, that elect the board of directors must be neighbourhood residents themselves and two thirds of the board of directors must live in the area that we serve.

Volunteers also play a very important role in the management of the centre, as well as the delivery of programs, and last year we clocked over 6,000 volunteer hours that are donated to centre programs and activities.

As a community health centre, we do support the need for reforms in our health system to improve the quality of care for the community within the context of limited resources. We are concerned, however, that the changes in the system shouldn't compromise the quality of health care or the principles of the Canada Health Act and, in particular, we're concerned about universality and accessibility with the kind of people we service in our area.

Although the bill affects our community in many ways, because of its magnitude and its complexity and the length of time that I've had to review it, I'm only going

to comment on some of the aspects of the bill that relate to the provision of health care services and some areas where we may be able to bring some of our experiences as a community health centre to reflect on the possible impacts of the bill.

I first must also strongly support the message of the previous speaker that, as I said, we do support some of the hospital restructuring initiatives and recognize that there are other ways that health care can be delivered and more effective ways, and that we've been exploring those ways and continuing, through our association of health centres, to explore those ways with this government and with previous governments that have been looking at this problem and with the district health council in Metro Toronto.

The first section I wanted to talk about was schedule F, part I, section 8, and to state, as I'm sure many others have, that we believe the power granted to the Minister of Health and the Health Services Restructuring Commission by this section of the bill is extraordinary and we perceive that it exceeds the power required to effect reform to the health care system.

The amendments erode accountability and some of the checks and balances that are built into the system to ensure that a careful and well-planned approach to change and restructuring takes place. We know that the change needs to happen, but we're also afraid to lose the things that do work well in our health care system and we want the change to happen gradually and thoughtfully.

So if special powers must be granted, we recommend some of the following changes: That the Health Services Restructuring Commission should be given a specific purpose described in schedule F in order to ensure that this extraordinary allocation of power should be limited in scope and used only for the purpose of hospital restructuring.

We recommend also that the Health Services Restructuring Commission and the extraordinary powers granted to the Minister of Health should have a limited time frame imposed on them.

Subsection 8(8), which allows the Lieutenant Governor in Council to provide that only specified members could be able to carry out a duty or act on behalf of the commission, should be eliminated. We have concerns about one person being able to make significant decisions without having to consult at least with a group of others or to have some check and balance against important decisions that could be made.

1840

Schedule F, part II, the amendments to the Public Hospitals Act, is actually the section I'd like to talk about a bit more. The powers granted to the Minister of Health in this section we are concerned would undermine the function and structure of hospital boards of directors. The reason I'm speaking to this is that it creates concern for community organizations like ours as well in the voluntary sector. It creates some confusion about the role of voluntary sector organizations in the delivery of services and programs. Through the new legislation, the government will be creating two parallel systems of management of health services, which will lead to a lack of clarity about the channels of accountability and authority.

We realize the legislation addresses hospitals only in this case, but we are concerned that it does set a precedent for other organizations. As I explained before, we're managed by a voluntary board of directors, and these volunteers donate countless hours to the organization. In return, they understand that they have both the responsibility and the authority to manage the organization. As I said, they come from the neighbourhood and they then have ownership over the organization and feel they are accountable for the public dollars they've been entrusted to manage.

These boards act as a check and balance, both to us as the staff in the organization and also between the organization and the government. They provide a mechanism for residents to monitor the spending of public funds, and they promote community responsibility and involvement. This structure places decision-making at the local level and avoids the danger of inappropriate decisions being made by a large and distant bureaucracy. The government has influence in the organization through the conditions of its grants and its funding, which we must fulfil, and the board is entrusted to manage and fulfil these conditions.

In addition, the board can determine what contracts to accept or refuse and can also seek funds from the private sector, which we in fact do in our organization. If the government steps in to manage the organization directly, the boards won't be able to carry out their functions and volunteers may not continue to serve on boards like ours. I think it will take away some of the incentive and initiatives that the community members feel in acting on boards of directors if they feel the government can come in and mandate and change the mission or the constitution of the organization.

I think the government needs to decide whether it wishes to be involved in the day-to-day management and direct delivery of health care or whether it wishes to maintain a system that empowers voluntary board structures to manage and maintain and deliver the health care services.

We recommend that the government review section 6 of the bill to ensure that the current system of voluntary management will not be jeopardized through the introduction of this bill. In particular, we have special concerns about subsections 6(5), 6(6) and 6(7), which we suggest should be eliminated from the bill.

The next section I want to talk about, very briefly, is the Independent Health Facilities Act. We think this may have many more implications for us, but we're unclear yet about what these are, even the definition of what an "independent health facility" is. That may include community health centres. It may not. We're not clear on that and haven't had time to have some dialogue with the government to understand what that might mean.

But we are particularly concerned that the government could, under this legislation, select individuals and organizations to submit proposals for the operation of independent health facilities without necessarily putting that open to public tender. This, we believe, doesn't allow for fair and open competition. We recommend that all requests for proposals should be published to the general public.

We recommend that subsection 5(1) be changed to read that requests for proposals must be published in a newspaper of general circulation in Ontario. As I said, we're not sure about the rest of that section.

Schedule F, part IV, which I'm sure you've heard about from other people as well, the disclosure of personal information, is also another area of grave concern to us. In the newspapers, I read that the minister stated that this amendment would allow him to collect and use personal information for "purposes related to the administration of the Independent Health Facilities Act, the Health Insurance Act" and so on, and that it's necessary to address issues of physician fraud.

Community health centres do support the idea that an important part of health care reform is the reform of physician services and primary health care. We very much support that. However, we also think there are many ways in which the system of physician care can be reformed without infringing on the rights of individual patients.

Community health centre physicians, for example, are on salary, and work as part of a multidisciplinary team. The physicians are supervised by the director of the centre and accountable to the director and the team. We do peer review, where the charts are audited and reviewed by members of the team. All of these are conditions of working at the centre.

We also know there are many alternative methods of payment for physicians being considered at this point. We think models such as this could be put in place to ensure quality of care and the best use of health care dollars, rather than granting the minister power to go into somebody's chart and perhaps break some important issues of confidentiality.

So we recommend that paragraph 31 of subsection 42(1), which allows the Minister of Health to pass regulations prescribing conditions under which the minister may collect, use or disclose personal information, should be deleted. We also encourage the government to review alternative methods of physician payment as ways of improving physician services.

In summary, as I mentioned earlier, the complexity and scope of the bill and the short time frame for review doesn't allow me to comment further on the other sections. The most pressing concerns we have are with the provisions that grant extraordinary powers to the government and interfere with the abilities of local boards to effect their mandates. In addition, we're concerned about the amendments that jeopardize the privacy of patient records, which threatens the promise of confidentiality that has always been a really important part of our health centre's commitment to our clients.

I very much appreciate some time you've given me to speak. I also want to say that this process of consultation allows people with real experience in the field to bring these experiences forward to you so the implications of such far-reaching legislation can be better understood. I hope the government will consider the consultation in this spirit and understand that this process will likely create better and stronger legislation.

The Chair: Thank you. You've left about three and a half minutes per party, beginning with Mrs Caplan.

Mrs Caplan: Thank you very much. I agree with all the areas you've raised; I share your concerns. Of course, I also have concerns in a large number of areas you haven't raised. I appreciate that you haven't had a lot of time to go in-depth, but you've made an excellent presentation.

I'm going to focus on your last comments regarding consultation. Do you think more people should be heard on this bill, that it would help with the community's understanding, and also that the bill should be split into individual bills so people with expertise from different areas could come before the committee to focus on their area of interest and expertise without having to say, "I don't know anything about that other field," and rely on someone else to speak for them?

Ms Crammond: I can't comment on the numbers of people, because I'm not sure how many people will actually be presenting. I do find, though, that there is so much in the bill that having it in separate pieces would have helped a lot. I also think having a bit more time, and time not only for presentation but for dialogue. I do think that the intention of some sections of the bill are appropriate, but there may be implications to the bill that neither we nor perhaps the government have understood entirely. By being able to talk back and forth, we can have a better understanding of what that really means and perhaps improve the legislation before it's passed.

Mrs Caplan: You've said it very eloquently. There are hundreds of people who have applied to the committee who we will not be able to hear because there's not enough committee time to do that.

I did want to answer one of the questions you have. I asked the question about the implication for community health centres, because the legislation is not clear. The question I asked is, "Is there anything in this legislation that would preclude a community health centre, in fact a doctor's office or clinic of any sort, from being declared an independent health facility?"

I'm happy to share all of this with you, because I know it would take more time than we have, but it does say not only that CHCs, community health centres, can now be required to be licensed as an independent health facility if they are providing a service for which a facility fee is attached, and that there are some community health centres now that have independent health facility licences, but this legislation allows for new technologies to be included, so that CHCs could well be required to license, and the kinds of services they're talking about could include additional diagnostic services such as echocardiography, whole-term monitoring and EEGS.

So if you're doing any of that now or if you contemplate doing or wanting to do any of that, you would have to have an IHF licence, as required by the new amendments. Similarly, should any of that change in the future arbitrarily, simply because the minister believes it would be in the public interest, without any process, you could then be included in the bill. There are a lot of implications here that we all should be very concerned about, to know what the process is going to be.

I think you've made a very good point regarding the commission and the opportunity for micromanagement. One of the major concerns is that there is no process

requirements in this legislation for dealing with those enormous powers of the minister, which he can then delegate.

1850

I just want to say thank you very much, and if you do have any other thoughts—I hope you'll have the opportunity to come before the committee again in the future, but if you don't, please feel free to let us know other concerns you have, because people are just beginning to realize the implications of this bill.

Ms Lankin: We really appreciate your presentation. As you know if you heard the comments I made to the last presenter, I agree with your first recommendation that the restructuring commission should be given a specific purpose, that that should be set out so the extraordinary allocation of power is limited to the purposes we are able to debate and agree upon.

I also agree completely with the restructuring of the health care system and the movement of resources from illness treatment to health promotion and illness prevention, and from institutional care to community-based care where appropriate. What I worry about is the cuts happening on the institutional side and the reinvestment not taking place, and that's always been the struggle we have had, whether it be years ago with what happened in psychiatric hospitals and/or whether it be the most recent experience of what we've seen in Windsor where, after a concerted community effort to restructure their health system, the commitments were not there for those dollars that were saved to be reinvested.

You've raised a point which I have been very concerned about and have raised a number of times in the last couple of days, but there's so much in this bill that I think it's getting swamped by other issues, and that's the impact of this legislation on volunteerism and voluntary governance and the voluntary boards.

There are two sections of the Public Hospitals Act that are of concern. One is the new powers given to the minister to appoint a supervisor and the lack of process requirements around that appointment, and then the powers given to that supervisor, not just to advise the board, but to actually step in and take on the board's day-to-day operational requirements. There was always, with respect to certain things, if a hospital is under supervision, a requirement that the board get the supervisor's approval on certain things, but now it's the whole ball of wax

More important than that, and you've hit it right on the head, in 6(5), (6) and (7) the minister can give his own direction directly to the board and the board must implement that. Irrespective of any other act, letters patent, bylaw of the board etc etc, it has to be done. Where is the support for volunteerism? I worry about that. You deal, in another part of the health sector, with community boards. Could you please just elaborate on why we have community boards and the role and the importance of it? I know the answer to this, but I think others need to hear this

Ms Crammond: As I tried to outline in the presentation, for us in the health and community sector, our board acts to direct, to do our strategic planning, to identify our priorities, to tell us what's important, to set up the kinds

of mechanisms for decision-making in the organization that they believe are important to maintain accountability. They're also accountable to make sure that the public funds they receive are appropriately spent, so it's also a check-and-balance kind of function.

What I think is also important in the health restructuring is that our community tells us what kind of health services they want provided. For example, we do a lot of obstetrical; we have a physician that does obstetrics. We focus a lot on pre- and postnatal care because our community has told us there are a lot of families with young children and that's the kind of program they want in our community health centre. Each community health centre looks different because they have voluntary boards of directors and those boards know what that community wants better than some of, perhaps, even the staff coming in or than the government would from a distance.

Ms Lankin: Do I still have time, Mr Chair? The Chair: Would you like a little more time?

Ms Lankin: If I could have a little more time, of

course I would like a little more time.

I will underscore the importance of that, because I actually believe that this is a minister who, at least as I have heard him speak over the years, has spoken in favour of volunteer boards and not undermining the role of volunteers, and in fact accused the previous government of doing that as we tried to create multiservice agencies, a group which would still be controlled by a community board, nothing like what we see in this legislation.

The other question I would have with respect to amendments that you don't touch on-while you say we should set out the restructuring commission's specific purpose, I have also been working on and have felt that it's important to have an amendment that ties the role and the purpose of that commission to the kind of work that district health councils have been doing in local health care planning with the community consultation, so that these actions aren't taken just by the minister in absence of that community consultation-DHC health planning process. Would you support amendments of that type and can you comment on that?

Ms Crammond: Yes, I would. There has been some controversy, of course, with the district health council reports, but I think they have gone through a long process of consultation and made recommendations on that basis.

The Chair: Thank you very much, Ms Lankin. For

the government, Mrs Ecker.

Mrs Ecker: Thank you very much for doing a very excellent presentation with I think some very good recommendations. I would just like to quickly touch on two points, that it's not the intent of this legislation, that the community health centre is not changing the role of what it's doing, not getting into high-tech diagnostic or whatever, that there's no requirement to be included under the Independent Health Facilities Act legislation.

The other thing I think it's important to note, and Ms Lankin referred to it a little bit, is that the minister and government very much understand the contribution that the voluntary sector makes to the health care system. We couldn't be carrying through on the implementation of all the restructuring plans that are out there, for example, in my region in Toronto and other areas, if it hadn't been for the work of the voluntary sector and the community health centres. It just quite simply wouldn't be there without the volunteer boards. So we quite recognize that and that's certainly not the intent of the bill, to replace that. If there are suggestions or recommendations on how we can ensure that is clear to communities out there, I'm sure the committee would be prepared to consider those.

What I would like to ask a little bit about is because you have, as you say, experience on the front line. One of the things that we've talked a little bit about is restructuring the system and trying to get some of the resources from the hospital-based area into the community care area. Has that happened at all yet out there? If it has, is it happening fast enough? Does it need to happen fast enough? Just some thoughts on how you see that happen-

Ms Crammond: That's a big question. We haven't seen it significantly. The number of community health centres, for example, was increased under the previous government, but not as many as we would have liked still. We don't yet see any real plans or any commitment yet to what's really going to happen in the primary care sector. There has been some review of it, but until that sector is really looked at, then we've only looked at the hospital restructuring, as the previous speaker talked about, without looking at what's going to follow it.

So there hasn't been a significant shift from the institutional sector into the community sector and we have great fears, as the beds close in the hospital, about what's going to happen, who we're going to see and how we're going to be able to manage that care as we talked about, as we're trying to move people away from emergency departments. We would need to be able to extend our hours, extend our facilities and that sort of thing and we don't have the resources. We've been flat-lined this year certainly.

We need to also talk and plan that together. We have been working with our local hospital, but we would need something bigger than that to be able to look at how those resources are going to be reallocated.

1900

Mrs Ecker: Excellent point. You've got physicians on salary at the centre. Is that working well and do you think that adopting that kind of mechanism on a broader basis within the system might help us in the underserviced areas, getting physicians out into some of the areas where everybody's been having difficulties getting that to occur?

Ms Crammond: Absolutely. I think if you wanted to talk also to more physicians who are on salary-because I know that physicians as a group, you'd have to also talk to them, but I think you'd find that the physicians who are on salary are very happy with that arrangement. There are advantages both for the physicians and for the health clinics. I talked about some of the advantages for the patients and the clinics in that there's accountability, there's a team structure, so there's peer review. It's not such a closed sort of shop as it is when people are working in a fee-for-service. It's also a capped budget so you know every year what your expenditures are going to

As well, we think that in our neighbourhood, because we work with people who have many issues relating to poverty and health, often multiple health problems, people get the time that they need with the physician. They're not in and out in five minutes; they get a proper appointment. We also have a social worker on staff. We use nurse practitioners also, which I think is a really effective use of health care dollars. So a multi-disciplinary team approach.

The other thing is we find that many health problems are related to anxiety or other issues altogether, so we offer community programs in groups instead of having people go to the physicians. Our concern right now is with the Ministry of Community and Social Services cutting back on its programming. We think that more people are going to go see their doctor instead of going to the community club or the group that they used to go to, because they're going to need to go talk to somebody because they have anxiety and they're lonely and all of these other issues. So instead of going to a community service for that support, and perhaps a youth worker, they'll have to make an appointment with a physician who, we all know, is much more expensive and doesn't necessarily provide what people really need, which is community support.

The Chair: Thank you very much, Mrs Ecker, and thank you for your presentation. We appreciate your

involvement in our process.

SCARBOROUGH PRESBYTERY UNITED CHURCH OF CANADA

The Chair: Our next group is from the Scarborough Presbytery of the United Church of Canada, Rev Dr Richard Magie and Rev Lorne Taylor-Walsh. Welcome, gentlemen. You have half an hour to use as you see fit. When we get around to questions they will begin with the

government. So the floor is yours.

Rev Dr Richard Magie: I would like to thank you for the opportunity to be here this evening, and based on the conversation, the debate that was taking place in the committee when I arrived, I'm not sure whether I should be grateful to be among the chosen few or to be frustrated by the government's limitations on its ability to listen. However, I will choose the grateful route tonight because it has been a long journey just arriving. I don't mean that by way of miles. I think it's worthwhile reviewing some of the process that we went through prior to coming here.

When I was first given the half hour before the committee, that was before the finance committee, because it appeared that this was a bill that was intended to attack the budget deficit, and I believe I heard Mr Clement on the news last night giving that response to this bill. Then I was phoned to tell me that it was no longer a finance bill but it was a bill in general government and would I be pleased to take my half hour before this committee. Then I got another call saying, "Were you concerned about health issues or general issues, or what were you concerned about?" And I said, "Right now I'm concerned about a lot of things."

So, Mr Chairman, my comments this evening are not going to be restricted entirely to health issues, but will relate in some way to what I would perceive to be general government, which I believe is what this committee is about.

It is the business of the church to be concerned about the religious and spiritual needs of people. From the Christian tradition's point of view, moral behaviour is an expected response to the grace of God encountered in Jesus Christ. The entire study of Christian moral theology reflects the struggle to come to terms with our response to God in the way we live and organize ourselves as community and as family.

Dr Joseph Fletcher, professor of christian ethics from the States defines moral theology and moral behaviour

this way:

"The essence of morality lies in the quality of interrelationships which can be established among people. Moral conduct is that kind of behaviour which enables people in their relationships with each other to experience a greater sense of trust and appreciation for others, which increases the capacity of people to work together, and which reduces social distance and continually furthers one's outreach to other persons and groups, which increases one's sense of self respect and produces a greater measure of personal harmony.

"Immoral behaviour is just the converse. Behaviour which creates distrust destroys appreciation for others, decreases the capacity for cooperation, lessens concern for others, causes persons or groups to shut themselves off or be shut off from others, and which decreases an individual's sense of self respect is immoral behaviour."

It is against this standard of moral decency that I am

looking at Bill 26.

We have some concerns about this bill. Obviously, it is such a large bill, there are a number of issues that I do have to say that I would be able to support and be in favour of: arbitration, the borrowing provisions, and issues of that nature I find very little difficulty with. However, being as how it is all lumped into one barrel, we have to raise the issues within that legislation as we perceive them.

The first concern that I would like to raise before the committee is that it is our belief that through the process of democracy, the voices of all people can be heard and the common or collective mind can be discerned. When many of our people heard of the Common Sense Revolution, we somehow got the idea that it was this common mind that was being solicited. We believe that anytime the democratic process is diminished or interfered with, the common mind is obscured. The reluctance of the government to allow these hearings would be but one example of democracy interfered with.

More specifically, in schedule M, part 1, section 1, it provides that the minister may, by regulation alone, frustrate the democratic process of a municipality even to the extent of dissolving a municipality. This does not vary very much as I understand the legislation in the

health side of the legislation.

The government is quick to claim that in the last election it consulted with the public and received its mandate. While in the same tone, I, as a municipal

councillor, and school board members also received a mandate and that mandate was not to destroy, redefine or

divide the community.

This bill, before it is even passed, has already created all-out turf wars among municipal civil servants who are now hatching up schemes to protect their own jobs using the Conservative catchwords of economy and efficiency. I believe in Huron county, Ms Johns, in your constituency, there are six different schemes currently being considered by municipalities where the townships and municipalities are looking at trying to structure themselves into one community while the county is monitoring these and discerning some way how they can survive as a second-tier government.

Concern 2: Under schedule M, 25.2(12) is the wording which places an order in council above "any act or regulation which with it conflicts." In fairness, the inclination to govern through regulation instead of legislation did not begin with this government, but what Bill 26 does is to push it to new and dangerous extremes. This practice cannot measure up to the standards of moral conduct required by those who give their consent to be

governed.

1910

Concern 3: In Bill 26, the Minister of Health is given the power to unilaterally remove unspecified health care services from OHIP coverage. This provision has two possible outcomes. Either the procedure will no longer be in the repertoire of treatment modalities or we are back to an extra billing process in a way which I believe has just recently had some negative press in the province of Alberta.

These measures may have an immediate result in saving money, but at what cost? When people with minimal life skills—the sick, the emotionally fragile and the vulnerable—find that their safety net is torn, they simply do not have the resources to object or to find alternatives. This action has the potential to put lives and health at risk, and consequently is not acceptable moral conduct.

Concern 4: The restriction to access on freedom of information. Mark 4:22 says, "Whatever is hidden away will be brought into the open and whatever is covered up will be uncovered." In this legislation, requests that are regarded as frivolous or vexatious can be denied. If a minister or agency does not wish to reveal some document or information, of course they're going to be vexed about a request to reveal it.

Government in secret, behind closed doors, where information is withheld, will always breed suspicion and distrust. When the people you were elected to govern withhold their consent to be governed, the result is usually some form of anarchy. Such a situation does not have to exist in a very large segment of society before democracy begin to crumble. One example would be the underground economy. You simply cannot govern if you are not trusted. When suspicion and distrust prevail, communication and understanding are diminished and social distance is expanded, and as a consequence, the measure fails the test of morality.

Finally, we make four general recommendations to improve Bill 26, which are in your handout.

I would suggest, in addition, that since this bill is provided as a means by which the government intends to reduce its deficit, I would draw but one example of how absurd that can be when it is not well thought out.

If in fact the government were to act on the powers that are contained in this bill to restructure and realign municipalities, given the town of Goderich, with which I have some familiarity, and the townships were incorporated within the town of Goderich, you could save a considerable amount of money in duplication of services and you could save in terms of councillors, fewer representations on council, and there would be those immediate economies to the government. But don't think it's going to stop there.

We would then have to build a new pollution treatment centre, we would then have to build a new water treatment facility, and we would then have to begin to think about what it's going to cost to extend municipal services to a sparsely populated area in which there are enclaves of urbanization. So in the long run the costs of this kind of restructuring can overwhelm you without having any kind of vision contained in the bill of what shape that

restructuring might take.

I would hope that at the very least, if you cannot act on the specific recommendations, this bill could be reduced into its component parts so that each of the parts could be negotiated on its own merit. That way, those parts of the bill which are commendable and which speak to the issues at hand can be acted upon quickly, as the Premier seems to want, and can be put into place, while the other areas which cause much grief, much difficulty and much division in community can receive the kind of debate that the democratic process would ask for.

The Chair: Thank you. We have about 15 minutes left for questions, beginning with Ms Lankin.

Ms Lankin: Thank you very much. I'm just sitting here reflecting on your—

The Chair: Five minutes each.

Ms Lankin: I understood that was implicit in your directions.

I was just sitting here reflecting on the last comments that you made, again a plea to break the bill up and for appropriate time for analysis and public debate. Mr Chair, I'm just terribly frustrated with the results of today and the fact that government members on this committee defeated a motion which would have made such a recommendation to the government House leader. I suppose we will continue to try to convince them, and I am gratified and pleased that you put forward that point of view, and I'll leave that.

The actual recommendations you make, you know, it's very interesting. This speaks to the need for some time for people to understand what's going on. You talk about the change to structures and boundaries and services permitted by a municipality being done just by word of the minister. In fact, I understand that yesterday or earlier today—the days are all running together—there was a presentation by the Toronto board of trade at the other committee which supported the bill for that very reason that that was there, because they really believe we need to have GTA restructuring and they want to see it done. The bill doesn't deal with regional governments; it only

deals with local and municipal governments. So the very reason they were coming forward to argue support for it in fact wasn't contained in the bill. People haven't had time to really understand it.

Your comments on how this sets a new standard in terms of governing by regulation instead of legislation—I want to read to you from the Medical Times. This is an interview with Mike Harris, I guess just before or during the election. The question was that both the Liberals and Tories had pledged not to abuse ministerial powers, and this is what Harris said about it: "The trend in legislation, both federally and provincially, has been to place excessive regulatory power in the hands of ministers and the cabinet." And he asks this question: Who will punish the cabinet when the cabinet decides it's the law of the land? Yet he turns around and does this.

I think you've put together a cogent presentation with recommendations. I'm interested in your experience as a municipal councillor, as a member of the police services board and as a minister and part of the faith community. You must hear from a lot of people.

Dr Magie: Indeed.

Ms Lankin: Are you starting to hear from people questions about what's going on in this bill? I don't think

people understand it.

Dr Magie: Most people, Ms Lankin, that I've talked to have not had the opportunity to review the bill itself, but it vexes me terribly to hear veterans say to me as recently as today, "I went to war 50 years ago to stop a man like this." That's the impression that is out there, and I think that kind of impression frankly is sad. I think there's a hurt, there's an angst, there's a sense of betrayal. And these are people who are not on the welfare system. These are people who are working and paying taxes and in some cases pensioners who are saying this. These are supporters, if you'll excuse me, of the Conservative Party who are saying these kinds of things, and there is a real sense of dismay.

I think the issue that I would highlight and that I try to portray when I'm approached in this manner is that there's no right-thinking person who would not acknowledge the fact that the deficit is a problem. That's a given.

Ms Lankin: I agree with you.

Dr Magie: But the ends do not justify any means of achieving them. In other words, a moral end, a proper end, does not justify immoral behaviour in arriving there. That is the difficulty that people are having to wrestle with. They want the government to bring down the deficit, no doubt about it, but they don't want them to do it at the expense of the values that they hold to be good and true. They do not want the province dismantled in the process.

Mr Clement: I had a whole line of questioning, but I'm going to throw that out the window to discuss with you your definitions, I suppose. You say in your paper that immoral behaviour is the converse—your definition—and that "Behaviour which creates distrust destroys appreciation for others," and so on. Then you tie that in to Bill 26.

Dr Magie: Correct.

Mr Clement: I guess reasonable people can differ on what constitutes moral and immoral behaviour, just as

reasonable people can differ on the true definition of "dictatorship." One could make the argument, surely, that another form of dictatorship is a dictatorship, an enslavement, that is caused by such excessive government regulation and spending, trying to be all things to all people—in short, the status quo—which creates misery, creates over the past 10 years a doubling of spending and a doubling of taxes, and yet more people using the food banks, and yet more people on welfare, and yet more unemployed.

From our perspective, we think we are doing the moral thing by seeking to address the very wrongs which you seem to attribute to us. Would you like to comment on

that, please?

Dr Magie: Yes. I attribute those wrongs to you, sir, because it's your government that drafted this bill. I did not in any way attempt to justify any other kinds of activities which would not meet the criteria for moral behaviour that I set before you.

Mr Clement: Well, again we're on to definitions. But can you see at all the need to deal with the crisis that we now have in our province?

Dr Magie: I'm getting a tap on the arm, if I may. **Rev Lorne Taylor-Walsh:** Am I permitted to make a comment as well?

The Chair: Sure.

Mr Taylor-Walsh: A lot of my training has been done by aboriginal people in this country, and one of the things is they said that the United Church of Canada was doing immoral things and things that were hurting people in communities, because they say we must take time to listen to everybody. So we could have made decisions within five days—every meeting with native people, as you know, lasts for five days, which is great for a bureaucrat like me—but we said, "We need to take time."

We took the time to visit every native community in this nation. Out of that time of one year came the apology from the United Church, came a whole renewal of the eldership, which in the province of Ontario was almost extinguished, and it has now risen to enormous spiritual power because we took time to listen and talk to one another.

The morality is, will we take the time to listen and discern the common mind for the common good? The whole meaning of that common sense is the common mind for the common good. We can't come to that unless we take time to listen. That's what we were pleading for in our presentation.

Mr Clement: I acknowledge your point. That's why, as a party, we took four years to listen prior to June 8.

Ms Lankin: Oh, please. Don't insult—

Mr Clement: I believe I have the floor, Mr Chairman. I'm not saying that I corner the market on this, but I certainly can speak for my riding of Brampton South, where I knocked on 20,000 doors and listened to my constituents.

Ms Lankin: Are you talking about Bill 26?

Mr Clement: From my perspective, what I heard from the people who got me here was that the status quo wasn't working; the status quo in fact was creating more misery than it was alleviating. They wanted a government

that was going to institute real change so we could get on the virtuous circle, the circle of jobs, opportunity, wealth creation, growth, the social justice that comes from an economy that works. Would you like to comment on that, sir?

Dr Magie: Yes. I think there's an appropriate response to that, Mr Clement. I had a little boy in my Sunday school when I went up to the children's time about two weeks ago, and I said, "Guess what?" He said, "Jesus Christ." It took me by surprise so I looked at him and I said, "Excuse me?" and he said, "I'm sorry. I didn't hear the question, but I knew he was the answer to every question."

I seem to sense here that there is an answer in the government to every question, and that is that the status quo isn't very good and we need to reduce the deficit. I

take that as a given.

Mrs Caplan: What I underlined in your presentation was a quote that you've just repeated, and I think it's worth repeating again: "We believe that through the process of democracy the voices of all people can be heard and the common and collective mind can be discerned."

I'm going to ask you once again to state your support for all of those people, and so far there are 232 people who have applied for 188 slots here in Toronto, and there are 396 people—and organizations, I should say—that have applied for 274 slots in the 11 cities across this province. We have not yet advertised. What do you think should be said to those voices that are being turned away and not being given the opportunity to be heard in this democracy?

Dr Magie: There are two levels of concern that I bring to this bill. One has to do with specific content, which is addressed in the brief. The other level of concern has to do with process. When the process of democracy is frustrated, that doesn't mean that it doesn't exist, but what it does mean is that it is being interfered with, and being interfered with because of the lack of presentation ability by people who wish to do what I'm doing here this evening, and that is to voice our concerns.

When that process is interfered with, the legitimacy of government is also interfered with. In other words, the consent of the people to be governed will be withheld, and there are many, many ways by which people do that, as this government and the two governments that preceded it have found out: the withholding of services, the withholding of taxes, the tax reduction and tax avoidance extremes that people went to, the citizens' coalitions and what not by which the processes of government were diverted.

When I went on a municipal council, one of the first things that was told to me was: "You've got to be careful with the laws you pass. You can pass legislation that says that people can only park on the sides of buildings. The problem is, who's going to adhere to it?" That's basically the problem we see here.

Mr Taylor-Walsh: Within the area of ministry, my specialty is conflict resolution and organization of renewal. Everything I have read says that whenever we tend to centralize control, the level of anxiety increases exponentially—in everything. When we have an anxious

public, the first thing we've got to do is to reduce the level of control so that people feel they have an input to the process, they can talk about how controls should be exercised. Then the level of anxiety goes down enormously and you can get creativity, you can get common mind, you can get hope again—not struggle, not challenging people. So if my profession says anything, that's what it says to Bill 26: Reduce control, not increase it.

Mrs Caplan: In fact, this consultation document that Mr Clement refers to, where he personally knocked on 20,000 doors and discussed in detail, does exactly and talks about exactly the opposite of what Bill 26 is about. It says, "Less government regulation." This bill, as you know, contains not only broad, sweeping powers for ministers without scrutiny and accountability, but the most enormous regulatory authority that has ever been seen in one piece of legislation. This is centralization of government authority, not decentralization. So if that's the consultation they had and that's what they told people they were going to do, don't you think they should open the doors and let people come in and hear what it is they are planning to do?

Dr Magie: Yes, this is the season of peace on earth

and goodwill towards one another. Please.

Ms Lankin: Mr Chair, may I suggest we might want to engage this gentleman's services in terms of conflict resolution and anxiety lowering. It might be helpful if we revisit this question among ourselves as committee members.

The Chair: We could probably use him in the Legislature. Thank you very much, gentlemen. We appreciate your words of wisdom and your appearance with us tonight and your interest in our process. Have a good evening.

Dr Magie: Thank you for listening.

PSYCHIATRY RESIDENTS' ASSOCIATION OF TORONTO

RESIDENTS OF THE CLARKE INSTITUTE

The Chair: Our next presenters are here on behalf of the Residents of the Clarke Institute, Dr Cynthia Lazar and Dr Joanne Sinai. Welcome to our committee, ladies. You have half an hour to use as you see fit. Any time you allow for questions we'll begin with the government. The floor is yours.

Dr Joanne Sinai: We are expecting another member, but we'll start and ask her to join us when she comes, if

that's okay.

The Chair: Yes.

Dr Sinai: Good evening, honourable members. I am Joanne Sinai and I represent PRAT, which is the Psychiatry Residents' Association of Toronto. This is Cynthia Lazar and she is chief resident of psychiatry at the Clarke Institute.

What I am going to do is read out a letter that the PRAT executive has written to our Health minister, the Honourable Jim Wilson. What we would like to do is convey our deep concerns regarding Bill 26, schedule H, amendments to the Health Insurance Act, sections 29.1 to 29.7.

Our resident group includes over 125 young doctors in training in our five-year program at the University of Toronto. We represent a multitude of backgrounds and life experiences and we chose to train in psychiatry because we all feel very strongly about dedicating our careers to working with the mentally ill.

As you are aware, the mentally ill are extremely disadvantaged in our society. Many of them require longterm care as illnesses such as schizophrenia and bipolar disorder, which you may know better as manic depression, are lifelong. We are concerned that changes to the bill will disadvantage these people with psychiatric illnesses even further than they are already.

It's our position in fact that limiting billing numbers in the "overserviced" areas and forcing doctors to relocate to the north would be very shortsighted. Contrary to what is implied by Bill 26, there are very many underserviced areas in southern Ontario. These include child psychiatry, geriatric psychiatry, forensic psychiatry, HIV and medical psychiatry, chronic care psychiatry, women's mental health and cross-cultural psychiatry. In addition, persons with major mental illnesses tend to cluster in larger centres in Ontario. Not allowing new graduates to work in the areas wherever there is a need, regardless of geography, will further disservice these populations.

The department of psychiatry at the University of Toronto is dedicated to serving Ontario's northern communities. We have a provincial psychiatric outreach program that has introduced many psychiatric residents to northern communities such as Kenora, Sault Ste Marie and Baffin Island. There are also University of Toronto psychiatrists who provide services to other northern communities, such as Timmins, Manitoulin Island and Peterborough. Residents will also be able to serve these

additional communities in the near future.

Involving residents in this process allows us to become aware of practice opportunities in the north as well as matching us with excellent role models who already have an interest with working in that area. We believe that psychiatrists who choose to work and are suited to work in the geographically underserviced communities or domains are more likely to stay and provide a greater quality of care than doctors who are forced to do so.

We would ask that you would consider implementing the recommendations of the Scott and the PCCCAR—the Provincial Coordinating Committee on Community and Academic Health Science Centre Relations-reports rather than implementing coercive measures, such as billing number restrictions, to address physician resource issues. For example, developing re-entry programs for physicians practising in underserviced areas and promoting the use of telecommunication technology to link isolated health care providers with secondary or tertiary care centres have been suggested as solutions by the PCCCAR reports.

The omnibus bill also puts forth that physicians must have institutional appointments. In psychiatry, in particular, the focus is shifting from institutional to community care models, which can be much more cost-effective. The bill therefore would also limit the ability of psychiatrists to operate within a community setting.

I'd like to introduce Aileen Brunet. She's co-president of PRAT and she is now going to go over some of the points that I mentioned in further detail.

Dr Aileen Brunet: I would like to expand upon a few of the points mentioned by my colleague Dr Joanne Sinai. The subcommittee on underserviced area needs of the Provincial Coordinating Committee on Community and Academic Health Science Centre Relations, also known as PCCCAR, has acknowledged that people with psychiatric problems have difficulty getting the care they need in both rural and urban areas. It is our position that the implementation of Bill 26, particularly schedules F through I, will result in further difficulties for this vulnerable population.

Hospital restructuring, hospital closures and bed eliminations will significantly impact the provision of care to the severely mentally ill. For many of these patients intermittent, and occasionally prolonged, hospitalizations are necessary. There are no community services yet in place to deal with potentially dangerous and very ill individuals. To close beds without these provisions in place could have disastrous consequences.

Many of our patients are unable to live in the community, and options for them are shrinking. Conventional nursing homes and long-term-care facilities will often refuse psychiatric patients, and the proposed closure of long-term facilities such as Runnymede will limit their options even further. In a personal example, one of my patients where I'm working right now, the Queen Street Mental Health Centre, has been on the waiting list for the Runnymede chronic care facility for several months. He is not requiring the type of care that we have at Queen Street Mental Health Centre, but there is not room for him at Runnymede. If Runnymede closes, where will the patients currently there go? And then where will my patient go?

Proposed changes to the Ontario drug benefit program will also negatively impact on psychiatric patients. Many people with psychiatric problems are on social assistance and will have difficulty affording so-called copayments or dispensing fees. Our patients are often on a number of medications and may require frequent changes in order to achieve symptom resolution and to regain functioning and rejoin society. To place such an undue financial burden on an already disadvantaged population is essentially

punishing them for their illness.

The proposals contained in schedule H of Bill 26 will also have significant repercussions on psychiatric patients and those who provide their care. Current psychiatrists in training have dedicated five years of post-graduate study to the acquisition of up-to-date skills that will enable them to appropriately the mentally ill. Many current psychiatrists in training have strong interests in working in areas and domains of practice that are underserviced.

I personally am hoping to have a career in forensic psychiatry, which is an area of psychiatry that is vastly underserviced in all aspects of the province. I also have been on several trips to underserviced areas that have been provided by visiting specialty clinics that our clinic has, to Kenora and to Baffin Island, and it's through this experience that I'm gaining exposure to more rural

underserviced communities and acquiring an appreciation for what they need and how I can best serve that.

We believe that coercive recruitment and retention measures will not work. Both the subcommittee of underserviced area needs of PCCCAR and the Scott report on the issue of small or rural hospital emergency department physician services recommend comprehensive strategies to address the limitations of coercive approaches to underserviced areas health human resources planning.

Their suggestions include direct contracts, creating residency re-entry training positions for physicians from underserviced areas, providing increased visiting specialty clinics and promoting telecommunication links to secondary or tertiary centres to provide support to physicians in underserviced areas. Physicians will go to underserviced areas if reasonable recruitment and retention measures are in place to avoid the burnout which is the vicious cycle that has been occurring up to this point.

I think there are several other reasons why this bill could negatively impact on the care of patients, but at this point I'll stop and introduce Dr Cynthia Lazar, a

chief resident in psychiatry.

Dr Cynthia Lazar: Good evening, honourable members. As you heard from my colleagues, as residents we have very major concerns about this proposed legislation. I'd like to personalize some of these concerns by

telling my story.

I entered medical school almost 15 years ago at the age of 19. I'd wanted to be a doctor since I was three. Once I completed my medical school training, I did two years of a residency in internal medicine and then went into general practice in Toronto. I stayed there for five years. I have a strong sense of social responsibility, and this was satisfied by becoming an HIV primary care physician; it was quite gratifying. In 1991, when I entered the residency program in psychiatry, it was to improve my skills in counselling, to reconnect with academic practice and with the intention of returning to service that community, to alleviate suffering among people with HIV and AIDS. I've excelled in the program and certainly found my niche in medicine.

In these times it's impossible to be a resident and not have one's career choices be influenced by community needs. There still exist pockets of great need within this city. I've become interested in women's mental health and would like to return to serve those suffering with HIV and AIDS, and women as well. I've sought out training in two modalities of short-term psychotherapy to alleviate anxiety and depression. These are not widely taught yet in our program and I would like to be able to teach these short-term therapies to other residents.

Under the proposed legislation, I'd not be eligible to be remunerated for my work unless I have a hospital appointment. There's certainly no guarantee of this when under the proposed legislation there may be hospital closures. I'm interested in providing consultations to the north, but I don't think I would find a large HIV population in the north. I would really be at the mercy of the Minister of Health, who may decide that Toronto is overserviced and overlook these pockets of need.

Along the way over my 15 years of training, I've very happily married and had a child, and as a result I may not

work full-time once I get out of my residency while I'm raising a young family. But I indeed would like to work. My husband has worked for 12 years in the same field, and his job could not be transported to the north. Unfortunately, we've made a very painful decision that between the choices of breaking up our young family to pursue both careers or giving up one career, mine would have to be sacrificed.

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Four years ago when I gave up my general practice in order to enter the residency, I did expect to practise in the city in which I was born and raised and have worked for all my adult life, the city in which my son and husband live. I think this was a reasonable expectation four years ago, let alone 15 years ago when I entered medical school. I don't expect people to feel sorry for me, and it's not a harangue for pity. I don't pity myself. I feel extremely privileged, even if I'm anxious about my future. I'm not in a position to be pitied when there are people in this province who are suffering greatly under financial burdens and living with debt.

However, I think it's a great waste to see my 15 years of training go unused. I'm a very expensive resource that's been dearly paid for by the people of Ontario, and I do think that I would like to offer my services. I don't see myself as such an exception among the residents. Most residents have trained for many, many years and entered medical school in a very different climate, with different expectations.

The psychiatrists and residents that I work with are, for the most part, an altruistic group. Somehow our governmental and societal view of doctors has changed greatly. Personal physicians seem to be preserved as exceptions, while the profession as a whole is painted as malevolent

mercenaries and fraud artists.

I hope my story will serve to change some of this view. My concern is that with this wide and sweeping legislation, the Minister of Health has a very blunt instrument that may waste our precious resources without solving the problem of servicing the needs of the north.

Our profession will suffer greatly by sacrificing its young. Health care will suffer by not using its newest doctors. Psychiatrists and psychiatry residents understand the need for reducing health care costs. However, young doctors should not be sacrificed. We've waited many years to practise, and we're eager to alleviate suffering in the community that has supported us in our training.

The Chair: Thank you. We have about four minutes per party for questions, beginning with the government.

Mrs Johns: Thank you very much for your presentation. It was indeed insightful and I can't help but feel sorry for you, to be honest. I have young kids too and I know it's a difficult time when you have to look at different alternatives to things that you've planned before.

I just want to talk in general about doctors for a few minutes, because you've raised that issue about doctors, and I want to tell you the dilemma that we have as a government. I come from rural Ontario, and it's grouped with northern Ontario, and basically I believe there's a two-tiered health system in Ontario. The two tiers come from some people having doctors and some people not being able to have doctors.

We've had a problem in Ontario for 26 years that some parts of Ontario do not have doctors, and governments of all political stripes have not been able to solve the problem. It's a big issue. I feel strongly about it. I ran, as part of my campaign, on the fact that there had to be an ability for all people to have available to them health care services, doctors, emergency rooms, which we do not have in my community because it's underserviced.

Out of eight doctors that come out of medical school, one doctor goes to rural or northern Ontario, seven go to overserviced areas. We can't continue to follow on in that process. So what we have said as a government is that we need a window of opportunity to ask people to change the system, maybe have rural and northern practices in the first two or three years of your residency so that you have time to see what goes on in northern Ontario or rural Ontario, and it allows you an opportunity to see us. We're asking for that window to allow all people in Ontario to have health care.

We talked about 6,800 beds being eliminated, but no hospitals have closed. I just want to talk about the need—in the document it says "specialists." We would like specialists to be tied to a hospital. Why do you not see yourself as having a need to be tied to a hospital, or do you see that? Any one of you is fine.

Dr Lazar: Okay, and then Aileen Brunet will get a chance to comment.

For me personally, I would like to be tied to a hospital, but I see that in psychiatry overall it's a problem. As there's been a push to reach the needs of the community and move out into the community, tying every psychiatrist to a hospital would be a regressive move against this push. Outreach programs do better when they're not tied to a hospital, when they're actually tied to community resources such as the outreach program at Seaton House.

So for me personally, I would be very happy to be tied to a hospital, but there's no guarantee. The most obvious hospital for me to be tied to with women's mental health would be Women's College, which is slated for closure. With the number of hospital closures that have been suggested, those hospital appointments will be few and far between and anxiously sought after, and certainly not every specialist will be able to get one.

Dr Brunet: My comment is just that although, on the face of it, it may appear reasonable, I don't think the purpose of it has been clearly explained to us, other than controlling the number of billing numbers of physicians. If it's made mandatory that we have to have a hospital privilege, and then the government legislates the number of people who get hospital privileges, that restricts the number of people who can work.

I would just like to qualify that some of the areas that are referred to as overserviced, I think we've tried to make the point, are not. Anyone who tries to find a psychiatrist in Toronto must wait a long time. I agree the north is underserviced, I agree we need to do something about that, but I think to create a north-south dichotomy is an error. There are a lot of people who do not get services in the south, and particularly with psychiatry, which is what we want to talk about today, people with mental illness tend to gravitate to these areas, particularly severe, chronic mental illness. This is where they are; it won't do them any good to make us go north.

Mrs Caplan: I think you've put your case extremely well for the unmet needs in areas that may be overserviced in some respects. Certainly there are within that bigger picture areas of special needs. That's why, frankly, I think the whole billing number scheme is wrong. It's unnecessary to solve the problems. I do think that affiliation, whether with a hospital or a facility or a program—and I would hope this legislation would be amended to include programs so that you could have the affiliation with a community.

The notion of being affiliated I think is important in the development of a system, but I don't think you have to say you must have hospital privileges or that you must be with an independent health facility. I do believe that if there are mental health programs that you could be affiliated with in an area where perhaps there is a surplus of family doctors, we could accommodate the needs of the community, whether it was the needs of severely mentally ill or HIV patients, or whatever the identified program requirement was, to open up opportunities for the new and the young.

God knows, we need the expertise and the skills that you and your colleagues bring. I believe, and I'm a former Minister of Health, that billing numbers not only are wrong and unfair, but they're the wrong solution to the problem and there are better solutions that have been proposed. One of those, frankly, is starting to look at the practices of retirement planning and that sort of thing that will open up new opportunities for the new graduates that we've got such a large investment in.

So I share your concerns. Frankly, I predict that he will remove the billing numbers from this legislation, because nowhere did they ever say that was what they were going to do. I think if they are convinced of nothing else, I'm hopeful that they will be convinced that there are far better solutions. Nobody wants to be treated by a doctor who is forced to work in the community; nobody wants to be looked after by someone who doesn't want to look after them. That's not good, quality care.

I did want you to also comment, if you would, on the effect of copayment, the user fee, for drugs. We've heard from other psychiatrists that your patients will be disadvantaged, particularly the ones who have compliance problems or potential for suicide, where drugs are given out on a very limited and restricted basis, perhaps some who also have very small comfort allowances available to them. What will be the impact of the user fee that is being imposed by this government?

Dr Sinai: I can respond. Many of our patients, if they do have housing, are in situations where the person who runs the boarding home or the group home has full control of all the funds that come in. They provide them with housing and three meals a day and they often get as little as, say, \$10 a week as a comfort allowance. The points brought up about our patients often being noncompliant, having to be given repeat prescriptions at times and also those who are suicidal only being given a limited amount of medication at a time are very real.

In addition, because often they become drug-resistant or often it takes trials of several types of medications before you can treat someone adequately, this is a population where we do expect that we will be changing prescriptions rather often at times, and also that there will be a need to use a pharmacy more often than with other types of patients. Our patients just don't have that extra cash to be able to go to a drugstore and pay \$2 every time they need to get a prescription.

Ms Lankin: I think you put your case forward very well and it's very understandable. I'm going to use this time just to tell you a little bit about what I've been hearing as these committee hearings have gone on, and what disturbs me. It's primarily things that I hear the members opposite saying and, with all due respect, Ms Johns, I don't mean to pick on you tonight—

Mrs Johns: You've been doing it all day. Go ahead.

Ms Lankin: —here I am again. I find myself really frustrated by the things you say, because it sounds to me like either you're saying them quickly and not thinking or you don't understand what is actually happening currently in the Ministry of Health.

You just told these three young doctors that all you were asking is for them maybe to go and do a little bit of time of their residency in northern or rural Ontario. That's not what this bill proposes. Let's be direct with people in terms of what powers we are giving the minister to restrict access to billing numbers and to indenture people to different parts of the province. Be clear. We already have a program in this province to encourage residency placements in northern Ontario. That's been in place already and it is something that needs to be built on; it hasn't done enough. So don't suggest that's what this bill's doing.

Mrs Johns: I'm not.

Ms Lankin: Those are the words I just heard you say. Yesterday, I read from Hansard that you said that previous governments' policies in terms of underserviced areas meant that there were problems with emergency rooms. It was the governments' policies; you were lucky to have emergency rooms open. Then with another group, you told them that the minister said he's not going to use this power for a period of time, he's going to get people together and work through this and see if we can find alternatives. But you're still passing draconian powers in legislation.

Let me tell you what Jim Wilson, then Health critic, now Minister of Health, said to the previous Minister of Health on Bill 50, which had minor things in it compared to what's in this bill with respect to doctors. He says, "The minister says in her remarks this afternoon, 'Oh, it's a fail-safe bill. We won't use it. It's simply a gun to the head of the physicians and other health care practitioners out there who bill OHIP. It's a gun to their head to negotiate with us at the table. They're the powers we think we need to bring health care expenditures under control.'"

He says: "I find it ironic, because you're at the table with the physicians. You don't know what agreement you're going to come up with," as you work through these issues and you all sit down, as you referred to, "but you seem to know what draconian, closed-door cabinet powers you need. You're ramming this bill through the Legislature."

That's what I would suggest your government is doing. I would say your minister's words should be thrown right

back at him. I'm sorry to have used the time this way, but I have heard what I think is an incorrect interpretation of the legislation with respect to these powers several times now and I think it needs to be clarified.

I have one quick question for you. I understand that there have been other representations made to the Ministry of Health over the past period of time, trying to get it to understand the issues you raised of underserviced specialties like women's mental health or ethnocultural mental health. Do you believe there has been any progress made on that? Have any of those areas been added to what this government intends to define as underserviced areas or underserviced specialties?

Dr Lazar: I think you realize, because the wording is quite vague within the bill, there is no guarantee that that message has been received loud and clear by the government or any true acknowledgement that those are pockets of underserviced need in our community.

The Chair: Thank you, ladies. We appreciate your interest in our process and your presentation tonight.

Our next presenter is Pam McConnell. Not here? We'll have a five-minute recess.

The committee recessed from 1956 to 2007.

PAM McCONNELL

The Chair: Pam McConnell is a Toronto city councillor. Welcome to our committee. You have half hour to use as you see fit. Any time that you leave for questions will begin with the Liberals. The floor is yours.

Ms Pam McConnell: Thank you very much, Mr Chair. I want to say, first of all, I'm sorry I was a few minutes late. I was at a community event today before I came. I was at an event at St Paul's Church, and the children at St Paul's Church were doing the Nativity story as they're a Christian church. As part of that, they were doing the birth of a child in Regent Park. They're calling their play Sleep in Heavenly Peace.

I would say that part of what their message was today, and certainly in terms of some of the highlights of the things that they thought was of concern in the year, I was a bit surprised to hear that, along with the assassination of Rabin and the explosion of nuclear devices in the South Pacific, one of their disasters of the year that they read out from the newspapers was the cuts of your government. In that vein, I felt it was a good opportunity for me to reflect on the needs of my community, and that's why I'm here today.

I will be speaking primarily on the health-related matters of the bill, but I wish to add a few more comments on the more serious implications of the other aspects of the rest of the bill.

I believe this bill should be broken down into some logical components, perhaps four or five sections, so many of us can begin to address some of those questions as well as have some of our community understand what is before them. There should be sufficient time for the public to interpret what is really meant by each section so that the meaningful responses and the proposals for amendments could be made through hearings throughout the province.

This process preferred by the current provincial government I find quite disgraceful, and I find it very contemptuous of the public, and particularly of my community.

I am tonight representing my community and I also wish to echo the recommendations made the day before yesterday by my city council through the presentation made at the other subcommittee by my colleague Councillor Kyle Rae. This week, Toronto city council, I'm sure you know, approved a motion opposing your bill, asking for the bill to be broken into parts, asking for further public hearings in January for the Toronto area and asking that the health-related schedules to this bill be deleted.

I represent ward 7, as I have explained to you. It is the east downtown area of the city of Toronto, in St George-St David riding. This area includes my Cabbagetown, my Regent Park, our Moss Park and our St James Town areas, which I'm sure most of you know, among others. The communities in my ward are being very seriously affected by the actions of this government. Recently, it was calculated that in St George-St David riding alone \$13 million annually was clawed back from the social assistance recipients living south of Bloor Street, and not so coincidentally, approximately \$13 million annually in tax rebates is expected to flow north of Bloor Street to the better-off residents of Rosedale and Moore Park.

My ward has many working poor, and they live in private rental housing, non-profit housing, cooperative housing, as well as public housing. In recent weeks, we have learned that all three forms of this affordable housing are being threatened by the Progressive Conservative government. Tenants are worried sick, as I heard tonight, about losing their rent control. The residents of non-profits and cooperatives have been told to expect cuts in their subsidies and possibly a loss of some of their rent-geared-to-income units, and large meetings of public housing tenants have been held to discuss rumours of selling off their buildings.

Believe me, it is no exaggeration to say that my community is sick with anxiety, a feeling of helplessness and real effects, some of which are the experiencing of

cold, of hunger and now of dispossession.

This week, I was very proud of the actions my city council took to set up the multimillion-dollar "survival fund" which will attempt to compensate for some of the devastating impacts of your provincial cutbacks to the most poor, to the most vulnerable of my city. We will concentrate on hunger and, in particular, on children and shelter and support programs for our homeless. My ward has the highest concentration in Metro of inner-city schools, of public housing, of school food programs and, of course, of shelters and drop-ins for the homeless.

It is against this backdrop, and my concern for the health of my community, that I wish to assess some of the impacts of the omnibus bill. I am not an expert in health services or legislation, and due to the serious lack of time or coherent explanation of the bill from the government, I can only react to what these provisions seem to imply. I am, however, an expert on the needs and the health of my community, and I have represented this

community as a school trustee and a councillor for 13 consecutive years.

I do not have the luxury of thinking of this solely as a bill to provide "the tools for restructuring," as though it's not real flesh and real blood and that it won't really hurt people. Neither can you, as committee members, afford to think of some of these measures in isolation from the cumulative impact on the poor and the vulnerable of all the economic pressures and the other provincial actions and all the cutbacks.

With regards to schedule F, the Independent Health Facilities Act and the Public Hospitals Act, subsection 6(3) of the section of this act, which currently requires that government preference would be given to Canadianowned and non-profit operators of health clinics and

facilities, should not be repealed.

This goes against everything that we, as Canadians, have come to expect in our health care system and is not at all what is promised in the Common Sense Revolution. The bill would remove the requirement for tendering, which ought to be an integral part of the so-called competitive profit sector. But my reading of the other clauses amending this act increases my horror at the trend that is emerging: the insight into the direction this provincial government is heading and the power it's giving itself to get there quickly, without any public scrutiny, without any public debate.

As I understand it, the minister will be able to define almost unlimited types of health services as being subject to a facility fee. User fees of any and all descriptions could be charged to certain types of persons, to certain types of health services, at the whim of the minister.

Taken with the other changes to the health facilities, the only conclusion one can draw is that we will be well on our way to a very serious two-tier health system. Questions must be asked about the Americanization of our system and about the preference the government may give to the profit-making health facilities, about the extra user fees, and perhaps even the competition that would be set up against the community health centres.

In my community, as you know, Regent Park Community Health Centre has been serving the community for nearly 25 years. It takes a preventive approach to health care. It provides a more holistic approach to health services and is sensitive to the community—our community—it serves. And yes, it is less expensive to provide health services with doctors on salaries. Will it be forced now to charge user fees for some of its services, or will the private health clinics, without being tendered, be encouraged to compete with our health centre, providing fewer integrated preventive services? Will future funding of our centre be curtailed so that it is not unfairly subsidized as a competitor? What will the user fees be and what will they be for?

In relation to the powers of the minister under these amendments to close, merge, direct the services to be provided by the hospitals, without public review, I find this very scary. We all know that from time to time our health service needs a bit of review and that institutions and approaches need changing. However, Canadians feel ownership and pride in their health centres and their health system. They expect to be consulted, and they

have participated in local health councils, in hospital communities and in local health centres.

Recent discussions about the Wellesley Hospital and the Central Hospital have created strong reaction in our community. I should tell you that when I was holding a petition on Parliament Street—and I know many of you have done that yourselves, tried to solicit people to sign things, and many walk by and others of the faithful come up and put their name on it. When I held this petition on Parliament Street, people lined up. There wasn't anybody who walked by who didn't sign for the Wellesley Hospital and the merger with the Central Hospital. That's how important hospitals are within our communities.

It is not that one can say nothing should change. Of course things should change. But our health care system is too important to be regulated solely by bureaucratically

driven decisions made behind closed doors.

With regard to schedule G, the Drug Benefit Act and the Prescription Drug Cost Regulation Act, the deregulation of the drug prices will affect every member of my community, yet the majority are not in a position, in any way, as I have explained to you, to pay higher drug costs. No one believes that prices will generally go down, and if they weren't likely to go up it wouldn't be welcomed by the drug industry.

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Seniors and social assistance recipients will have to pay more for their prescriptions. Maybe if there was more time to do this carefully, there could be some agreement reached on the well-off seniors paying deductions for their drugs, but the automatic user charge per prescription penalizes those who cannot afford it. The poor cannot afford to pay user fees for their drugs this year. Next year, with the loss of income, possible housing pressures, the cumulative effect of other cutbacks and the general user fee increase, where will the sick be getting the extra funds for the drug user fees?

With regard to schedule H, the Health Insurance Act and the Health Care Accessibility Act, "medically necessary services" was an important part of the definition of insured services. It is very disturbing that Bill 26 removes that reference to the medically necessary services and gives the minister power to unilaterally define what is insured and under what conditions. The minister will be able to differentiate based on the type of health care provider or the type of health care recipient.

The amendments to the Health Care Accessibility Act provide that hospitals can charge fees for services to people who are insured and the government can allow charges for services that are currently insured. Combined with the concerns I expressed under section F, I fear that residents of my community could have to pay more for certain sorts of health services at the very time they cannot pay their rent, cannot feed their children.

The other matters in Bill 26 that concern me with regard to health are in schedule M. The general trend towards the privatization of public utilities without adequate public debate, in my opinion is not acceptable. Decisions of such import as this should not be made in a hurry, and the quality of the decision-making will deteriorate in direct proportion to the extent to which the public are considered extraneous to the process. The

omnibus portion of this schedule which amends subsection 220.1(2) of the Municipal Act to allow for unfettered user fees and permit direct taxes such as poll taxes needs no further comment from me other than to say that this has simply got to be deleted from the bill.

User fees that are limited and appropriate have their place in municipal financial matters, but this bill makes an ideology of user fees, and most of my community cannot afford any of those user fees. Library, community services and other services are essential to the health and to the civility of our communities. We need a more thoughtful approach. It is not acceptable for a provincial government, with a bill bent on downloading as much of its costs and its responsibilities as it can, to play innocent and then to say it's up to local municipalities to decide on user fees. The fiscal pressures have a way of taking away our freedom of choice.

In closing, let me thank you for the opportunity of speaking to you and to tell you the general views I have with regard to Bill 26. However, the thing I would most like to leave with you is that this may play out differently in different communities, but in my community, which has already been hit and where children are singing in their Christmas pageants about the cuts in their parents' cheques and the soreness in their bellies, this is not a time to be adding additional costs to these families. These additional costs will not permit many members of my community to survive. Thank you, Mr Chair.

The Chair: Thank you. We have about 10 minutes left in total, so it will be about three minutes each,

beginning with Mrs Caplan.

Mrs Caplan: As you were speaking I was thinking about some of the phone calls I've had from people in my community. Oriole riding has the same broad socioeconomic communities that we see in this province, everything from luxury condos to expensive and middle-class family homes, and we have the highest percentage of high-rise and high-density, multiple-family buildings. In those buildings are people who are suffering.

I told the story a couple of nights ago about a call that I had received from a constituent who had been looking for work for 15 months, had three children and he was paying \$900 a month in rent, not an exorbitant amount for a family of five in Toronto, but it constituted almost 70% of the money that was available to him. He told me that he and his wife were surviving on sugared water for one meal a day so that their children could eat better, but they were out of food and they were too proud to go to a food bank.

I don't think the people of this province are aware of the suffering that is out there. These are people who will be required to pay for prescriptions when their children are sick, and if this bill goes through and the municipality brings in user fees for recreational services, their children will not be able to participate.

I don't think that people understand the broad implications of this bill, and that's why one of the requests we're making is to have the bill divided and allow for greater scrutiny. One of the concerns I have is the level of frustration that is out there when people can't be heard, when they can't come to a city council, when they can't come to a legislative committee. For everyone who comes, like yourself, there are hundreds who are afraid to come, because many of the people who live in Oriole come from countries where they were fearful of government. So they phone me and they don't even want to tell me their names; they want to tell me their story. I try to assure them that they have nothing to be fearful about, and then they read about the implications of this bill.

I just want to ask you, what do you tell them when they call your offices with these stories, Pam? What

advice do you give them?

Ms McConnell: It's very hard, Elinor.

Mrs Caplan: It's very hard.

Ms McConnell: It's very hard, and I don't think people understand that we are going from meeting to meeting, from place to place, and people are crying. I've represented this community for many years. It's always

been a poverty community.

I recently had a meeting down in Moss Park and someone was explaining something with regard to something totally different and suddenly burst into tears. I knew her. She was 65 years old. Afterwards, I hugged her and I said: "Are you all right? What's the matter?" and she said, "Pam, I'm \$300 behind in my rent and I have no way of catching up." This is a member of my community who has lived in my community, who has brought up three generations of kids in my community, all good kids. But when people get behind, they are unable to do this.

What concerns me is not just the individual little pieces of all of this. Some of it is housekeeping, sure, but the massive implications of what happens when you do this to people who are already up against the wall is that you cause serious mental health concerns. I have much more concern within my community. I worry about the children and their bellies. I think, okay, it's hard. We'll focus our money and we'll do that; somehow we will manage to do that.

But what we cannot stop from happening is the worry that the mothers and the grandmothers and the grandfathers are having in our community, and it's killing them. So that's what concerns me about the mental health

concerns.

The Chair: Mrs Caplan.

Ms Lankin: You did it again. I don't even have to look at you and I know you did it again.

Mrs Caplan: You do not wish to give me your time?

Ms Lankin: No, you can't have it, Elinor.

The Chair: My apologies. Officially, on the record, my apologies. Ms Lankin.

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Ms Lankin: Pam, thank you very much for taking the time to be here for your presentation. Too often when we debate these sorts of things through the Legislature or through the political forum—it almost doesn't matter what level of government it's at—it is too easy for all of us to engage in a forum for just partisan batting things back and forth across the badminton net.

I fear that something has happened over the course of the last few months here. I believe, in an attempt to have an honest assessment of it, that there is a government that has a very strong sense of where it wants to go in their agenda and that it has moved very quickly to put a lot of, as they call it, tools together in an omnibus bill. I think that through this, the left hand didn't know what the right hand was doing. Various departments of various ministries were putting together things at breakneck speed.

Overlaid on top of that was an agenda from the centre of government and the result is a patchwork, a mishmash, not necessarily compatible from one section to the other. There are errors and there are omissions and there are problems and there are things that I believe the government even intended to do that I would argue are wrong in content.

I think this is what happens when you move very, very quickly, and not just this bill, but the economic statement that was the backdrop for this bill, the decision around the welfare cuts when there's been no training put in place. There is no hand up that the government talked about. I believe that they wanted to do that, but they

didn't do that. It's all moved too quickly.

I guess I'm taking the opportunity of your presentation, because I think you speak very eloquently on behalf of a community that is affected in a very profound way by the cumulative effect of all these things. I take this opportunity to say to people, make your government slow down and think about it. Talk to your cabinet ministers. Have cabinet rediscuss this. Have another discussion at caucus about this.

Pam, earlier tonight we tried to move a motion to extend things.

The Chair: Ms Lankin, I'm going to have to interrupt

you because you've used up your time.

Ms Lankin: I'm sorry. I just want to thank you very much, because I'm profoundly moved by your presentation on behalf of the people of your community and I appreciate you being here tonight.

Ms McConnell: Thank you very much.

The Chair: Okay. For the government, Mrs Ecker. Mrs Ecker: Thank you very much, Ms McConnell, for your very sincere and heartfelt comments. I don't know whether this is going to turn into a question or whether this is going to be a bit of a response to Ms Lankin's comments.

I don't think anybody has a monopoly on caring for what's happening out there in our province right now, but at \$1 million more an hour that we're spending on interest, on the debt, than we take in, that's a serious problem. That's a million bucks that you could do an awful lot with in a health centre in your community. That's a million bucks that we could do an awful lot more with for welfare recipients. But we haven't got it because it's disappearing off to the money lenders.

Mrs Caplan: In the tax cut.

Mrs Ecker: It's disappearing off to the money lenders. That's something we believe we have to stop, and the only way we're going to stop it is by starting to look at government spending that we are doing here, and that means there are going to have to be changes. They are changes, and that means they're going to be difficult changes, and there are human consequences to those changes. I think we all recognize that.

But if we don't do that now, when? When are we going to do it? You're saying we're moving too fast. All

you have to do is take a look at the growth in the expenditure of the debt. How much more time do we want to waste in terms of trying to make some of these moves to try and preserve the funding? It's not a question of the status quo versus a reduced welfare cheque; it's a question of a reduced welfare cheque or no welfare cheque, because that's what we're facing here.

Ms Lankin: Why are you doing the tax cut then?

Mrs Ecker: Because a tax break for the working poor and the middle class is going to be the only break they've had in the last 10 years, Ms Lankin.

Interjections.

Mrs Ecker: It's the only break they're going to have. The Chair: Ms Lankin and Mrs Caplan, I believe that people in the government allowed you to have your say with no interruption. I think it's only fair that you do the same for them.

Mrs Ecker: Ms McConnell, one of the things that you've talked about is the importance of volunteer involvement, community involvement in health care, for example. I don't think you meant to, but you seemed to pass over a little bit the need for restructuring within the hospital sector, and you said hospitals were important.

One of the things that every Minister of Health for the past many, many years has talked about is the need to take some of those resources out of the hospitals and reinvest them back into the community, where you can do the community-based care that we all know that we need.

First of all, do you agree with that direction? Secondly, do you believe it's happened enough? Thirdly, if it isn't happening enough, how do we do it? How do we get those resources out there and restructure the system?

Ms McConnell: I'll start with your final question. I think that the problem with "What is the restructuring plan?" is that so far we are not seeing the additional money that comes out of the cuts to health care at the hospital, at the institutional level, in any way flowing into the community. If I could balance that with another analogy, with a real-life analogy, when you said that you were going to cut welfare costs and welfare cheques, you said that there would be a hand up; that we would have a system in place in Regent Park, in St James Town, in Cabbagetown, in Corktown, in my community, that would help people make up the difference or get a job. The answer to you is, we don't have that. So we didn't get the safety net; we just got the axe.

So now what you're asking is, is it possible to restructure them, and there are some very good ways to do it. But one of the ways that you don't do it is to take a hospital like the Wellesley Hospital—which five years ago we would have all argued, "Take it and throw it out the window." It did nothing for our community. Nobody used it, and suddenly that hospital, of all hospitals, took a whole different approach to things. It now has a birthing clinic that saves you money. It now has one of the major AIDS hospitalizations that is attached to and close to Casey House. So you've got some private money; you've got some public money.

In addition to that, when you put that together, the outreach of the Wellesley, with the multilingual services and the day surgery that can be done at the central

hospital—bingo—you've got a great circumstance where you could save \$11 million. But the question is, will the \$11 million end up in our community? Will we have the additional neonatal care that we need for the children in poverty? Will we have the extra dialysis, the extra ambulatory devices that people of the poor need?

You see, one of the things that's true is that health and poverty are related. So I hope that answers your question.

The Chair: Ms McConnell, I've been really quite generous on the time with you.

Ms McConnell: Yes, thank you. I appreciate it.

The Chair: We appreciate your coming to our committee and presenting to us and your interest in the process. Thank you very much.

Ms McConnell: Just before I go, I had to present this to you from the children. They did ask me to pass this on to you. They have done their work and they have said they hoped that you would help them sleep in heavenly peace. I'm sure that in all our multilingual communities and all our religious communities this is a message that is universal.

KATHY BUGEJA

The Chair: Our last presenter for the evening is Kathy Bugeja. I'm hope I'm right on the pronunciation.

Ms Kathy Bugeja: Close enough.

The Chair: Welcome to our committee. You went from being on early to being on late. It's amazing how things change. You have a half-hour to use as you see fit. Questions will begin with the New Democratic Party if you allow such time for questions. So the floor is yours.

Ms Bugeja: That's fine. Good evening. My name is Kathy Bugeja. I feel very honoured to be able to present my views, as a consumer, on the health sector portion of Bill 26. Briefly, I'm married—my husband, Leo, is in the audience here to give me some moral support—and I am a mother of two young sons.

Both my husband and I earned an MBA degree at the University of Toronto, and we have lived and worked in Ontario all our lives. My work background includes many years in the private sector as a mergers and acquisitions specialist and I currently run a successful business in the health care sector.

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So I feel I can offer a unique perspective here tonight, both as a grateful—and I do emphasize "grateful"—user of the health care system and as someone who works extensively with providers in the system.

It's within this context that I would like to offer comments on some elements of Bill 26. Let me be clear: I am not here to slam this bill. I appreciate the very difficult task we all face in trying to put a lid on escalating health care costs. I am here to offer constructive input and suggestions that I feel would balance the focus of this bill and ensure that patient care is not compromised.

Specifically, I would like to address three areas: individual consumer responsibility for health care utilization; hospital restructuring and the need to ensure continuity of care within the rest of the health care system; and physician services.

Let's begin with individual consumer responsibility. I applaud Bill 26's proposals regarding the Ontario drug

benefit plan—not because I want to inflict undue hardship on some of the current participants in the plan; I feel that aspect can addressed in other ways. But I do feel this bill and this section will force participants in the plan to go back to their doctor and ask, "Do I really need these drugs?" and that's not a bad thing.

It is proven scientifically that seniors have a much slower metabolism rate to absorb medications. Fewer seniors on fewer compound medications will result in fewer adverse drug reactions and fewer admissions to

emergency. Everyone benefits from this.

My question is: How can we extend this concept to other segments of the health care system? How can we make individuals more responsible for their use of the health care system?

In my opinion, putting controls on the user end of health care, the demand side of the health care equation, will render far greater savings than attacking providers on

the supply side of the equation.

Everyone knows at least half a dozen people who either run to the doctor for every little ailment or who shop around until they find a specialist opinion they want to hear. Worse yet are the horror stories of health card numbers being used by five different people at the same time. Only these people, not the providers, know how they are using or misusing the system, because we have an OHIP information system that is out of date and totally inadequate to track even basic patient care usage.

What happened to those consortiums we heard about that were going to launch the OHIP system into the 21st century? Why do I see nothing in this legislation to address this major weakness in our current health care system? If you can't bring the OHIP system up to spec, then tender the job out to someone else who can. Failing that, your only solution is to restrict the range and mix of services offered under OHIP, and that gets into a whole new spectrum of issues, including patient choice and the right and ability to access care inside and outside the publicly funded system.

While I'm happy to elaborate upon this point during questions and answers, I would like to switch the focus

of my remarks now to hospital restructuring.

I am somewhat encouraged that Mr Wilson, in his remarks to this committee on Monday, intends to use the hospital restructuring report of the Metropolitan Toronto District Health Council as a template for restructuring across the province, for that report incorporates a very important principle that took a lot of energy and commitment to secure.

That principle is: Regardless of what form restructuring takes—mergers, closures, downsizing, reconfiguration, no matter what you call it—it is recognized that the true or total demand for service, both inpatient and outpatient, still exists in the system and that this demand must be accommodated in the system to ensure patient care and the ability of providers to provide that care is not compromised.

Consequently, the MTDHC report recommends that any transfer of operating programs and services between institutions must include the operating budgets and personnel providing that care. This is critical to ensure continuity of care is not adversely affected by government's restructuring plans.

While the MTDHC report is fairly strong in ensuring continuity of care in the acute care sector, it is not as strong in ensuring continuity of care from the acute to the community or primary care sector. Right now, Home Care in Metropolitan Toronto is handling a 20% increase in caseload in fiscal 1995-96 over 1994-95. Many of these cases reflect post-op patients who are discharged sooner from hospital, ie, who demonstrate an increased level of acuity, as well as an increasing number of complex, chronic care patients receiving care at home. This jump in volume is before any restructuring has happened in Metro.

How will Home Care and the rest of the primary care sector handle the massive surge in caseload when 12 hospitals are reconfigured and hospital services are offloaded into the community? While the MTDHC report acknowledges the need to enhance community-based supports within a reconfigured hospital system, it sets limitations on what it recommends be provided. Moreover, it provides no mechanism to illustrate how this might be done. Bill 26 doesn't really address this either. It talks about taking a systems approach, but it's only focusing on one component of the continuum of care—

Mr Wilson, in his remarks this past Monday, talks about developing the tools he needs to get the job done. Well, I need tools too. I love my parents and I love my in-laws, but I can't look after them and my family and my business, which contributes valuable tax dollars, without the proper tools at hand to assume an increased

burden of care in the community.

downsizing the hospital sector.

I need a primary care sector that's developed to handle the job. I need family physicians who have the incentive and the commitment to provide community-based care. I need nursing and other provider options that give me

flexibility and peace of mind.

I don't care if I have to pay for it, but I want to be able to make the choice. I don't want a political ideologue telling me I can't pay for alternative arrangements. Having lived with a grandmother who was chronically ill for close to 15 years, I know what we needed but couldn't get. This experience has led me to volunteer my time and energy as a member of the board of the Home Care program for Metropolitan Toronto.

If I'm to do the job of informal caregiver as envisioned by government, I need the tools to do the job. Government's job is to either provide those tools or create the

market environment to develop them.

Finally, I would like to address Bill 26's treatment of

physicians.

Let me begin by drawing from my experience as a mother. If I continually belittle my boys, tell them they're no good, tell them I mistrust what they do or hit them for no reason, with no advance warning and with no ability to defend their actions, what do you think happens? How are they going to turn out?

I believe in positive reinforcement—setting guidelines and clear expectations, providing some latitude that allows for growth and working through difficult times together. I believe we should employ the same approach

with physicians, but Bill 26 doesn't do this.

In its quest to deal with utilization control from a supply-side economics perspective, Bill 26 assumes total and absolute control over providers will control health care utilization. This is wrong, not only because it fails to address the demand side of the health care equation, but also because it's immoral.

Bill 26 grants extraordinary powers in extraordinary times, but I do not believe those powers extend to treating individuals like suspected criminals. As a society, we have spent incredible sums of money to train and support physicians in the health care system, and they, along with all the other health care providers, have built and developed a system that we are all proud of.

While we acknowledge that this success could only be done as a team of health care professionals working together, Bill 26 isolates one member of that team, physicians, and states: "You are no longer valuable and we don't trust you to be a reliable player on the team. To that end, we will control what you do, where you do it, how you do it, to whom, and how, or if, you will get paid." This isn't fair. You're dealing too many blows at once.

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While accountability to the payor is just as important as accountability to the patient, Bill 26's approach to ensuring this is highly questionable, because the people who will feel the ripple effect of these blows to the profession will be you and I. Patient care will be compromised. You cannot do a good job if you are demoralized, abused, fearful of your job or your ability to perform your work. There are innumerable examples in industry that demonstrate this fact.

The medical profession is already showing signs of the siege mentality engendered by this bill. Talk to the average physician in practice. They're running scared. They're being hammered from every side and they don't even know why. Now, maybe this doesn't speak well of their ability to read the winds of change, but that doesn't justify this treatment.

This kind of treatment doesn't encourage physicians to be willing partners in comanaging the health care system. This approach does the exact opposite. I know because my business niche in this industry is working with physicians and other providers to effect change, helping them downsize or close programs, develop new programs, merge existing programs and services, or reposition their hospital, department, division or unit for change.

I know what works and what doesn't. The right approach neither coddles nor deifies the profession, but it does treat the profession with respect, the same respect accorded to all the other providers, administrators and planners in the system who are trying to do the best job they can in difficult times.

If you think bashing the medical profession will accomplish your objectives, then I think you're getting the wrong advice. Maybe you should be talking to people whose experience illustrates the direction you and I want our health care to go.

We all have a stake in our health care system, and I passionately believe that we can all work together to make it through these difficult times. I know it can happen; I've seen it happen; I've made it happen. But it's

not going to happen if we begin by clubbing each other over the head to enforce our points of view.

Talking to you tonight has been like a dream come true for me; to have an opportunity to offer some insight that might improve our health care system is really a once-in-a-lifetime opportunity. If there's a chance to lend my expertise as you implement some of this legislation in the months to come, I would jump at that opportunity.

Whatever you do to the health care system, do it right. Assemble the right team, take a systems approach to ensure you follow through the logic of your decisions and treat others as you would want them to treat you. I see this treatment demonstrated every day among the health care providers and administrators with whom I work.

On behalf of the silent majority in Ontario, I'd like to take this opportunity to thank them for a job well done. I wish you, the members of the standing committee, the greatest success as you tackle a most difficult task.

I believe in this system and the people who work in it. I see living proof every day that this system works when I look at my families, but change is constant and present in every industry. I will do everything I can to make our health care system better.

Thank you for listening.

The Chair: Thank you for your presentation. We have left about four minutes per party for questions, starting with Ms Lankin.

Ms Lankin: It's a very thoughtful presentation to wrap up this evening. I can tell, just from the words but also the way in which you delivered your presentation, how passionately you feel about our health care system, and that's something I share with you completely.

Part of what we as a committee need to grapple with, if in fact we continue to deal with the bills all together like this, is how we priorize amendments that we are going to move, because quite frankly there will only be one week to do clause-by-clause for the whole, not just the health section. The committee's to come together and do the whole of Bill 26. As we go through the hearings, I'm listening to try and get a sense of where the majority consensus in the public is for where amendments are needed.

I want to ask you particularly about the hospital restructuring section and the need for ensuring continued care within the rest of the health care system. The Public Hospitals Act amendments that are there set up the hospital restructuring commission. There are no powers or objectives set out. There's no tied-in relationship to the DHC and those reports in Metro or anywhere else. The powers aren't time-limited just to deal with restructuring.

We have heard recommendations for amendments in all three of those areas: sunset, not just of the commission but the powers, the extraordinary powers for restructuring, in three or four years' time; have the special purpose of the commission set out in the legislation clearly; and link it to the community consultation, consensus-building process led by health planners and DHC. Would you agree with those kinds of recommendations, or do you have alternative or additional suggestions for amendments in that area?

Ms Bugeja: In the hospital restructuring and the setting up of a commission specifically?

Ms Lankin: And the follow-through, what you've addressed as a concern.

Ms Bugeja: I do have some concerns that the commission would be represented, or the health restructuring authority, as the MTDHC report referred to it, would have the right representation of groups to ensure that the continuity of care is not compromised. Right now it's only in principle that the ability of providers to provide care across the system is not compromised. I would like to see that principle a reality, because if it's not a reality, patients are going to suffer extraordinary amounts of difficulty. It will just complicate what patients feel now when they're discharged from hospital.

I would also like that restructuring authority to examine some of the underlying rationale behind the MTDHC report. It's too bad you don't have anything to draw on because I'm a very visual person, but having been involved with the DHC process for at least four or five years—its predecessor was called the health services realignment committee—a major flaw in how the restructuring report was set up was that it took some assumptions about how you can spin people through the system faster; then it arrived at a total number of inpatient cases for the system.

Then there's a massive break in logic that says, "From that total demand, this shakes out to 12 fewer hospitals." What's missing in the analysis and the sharing of information with the people who volunteered their time in the process are the critical mass targets and requirements used by the DHC consultants to arrive at their recommendations.

We don't know why only four sites, or three sites, in Toronto got paediatric care. We can only assume they're working that a viable critical mass for delivery of obstetrics is 3,500. Where did they get that from? Where did they get that critical mass requirement from? Who says that 90% of the patients who are currently billed as alternate level of care can be handled in the community? Presumably they're institutionalized because that is the place of last resort; there are no other people in their families or in the community who can look after them.

This rationale has to be reviewed. Just as you have an auditor to review the financial statements of the government, I think you need an auditor to review some of these DHC reports to ensure that some of the stuff is logical and rational.

Ms Lankin: You think that would be a role for the commission?

Ms Bugeja: Yes, the commission should do that.

Mr Clement: Thank you for your presentation. Just as you said it was a pleasure to be here, it was a pleasure to listen to you as well. I thank you for that. I'm going to congratulate you right now because I'm going to use all the power and authority vested in me, which is none, to appoint you for the next three minutes the Minister of Health.

Ms Bugeja: Okay.

Mr Clement: You're now the Minister of Health. How would you approach the health care system? What would be your top five priorities? How would you get us through to the health care system we all want in Ontario?

Ms Bugeja: I think part of the problem you're using in addressing the health care system is you're putting all

your issues in one big basket, one big melting pot. I told you I work with physicians. They commonly do that too. They take all their crises and they put them all in the same basket and they don't rank them and they don't put them along a time line. So when you're faced with all these issues at once, you panic or you get paralysed into inertia where nothing happens.

If I were Minister of Health, what I would do is take all of the issues that I found were burning issues—provider issues, consumer utilization issues, ODB issues, all of this stuff—and I would actually start ranking them in terms of urgency and ability to address the issue, and I would put time lines, almost develop a critical path of how we should address this stuff. The health card is a classic example. I said we should develop OHIP into a viable system. Now, that's not going to happen overnight, so that would be one of those issues I would start working on now and aim for a year or two to have a viable proposal on the table of government saying, "This is what we're going to do." These consortiums would be working on this stuff; that's possible.

I would then kind of rank other issues that government needed to address immediately. But even on the provider side, even the physician side, they're not all immediate issues that you really need to deal with. As to the billing numbers issue and the relocation and maldistribution of physician resources, you know there's a time line that relates to when these people graduate and when they finish their residency, so you already have a defined time line to work with in the system. You could easily look at the attrition rate of physicians right now and probably do a matching, and I bet you dollars to doughnuts your maldistribution problem would not be as great as what you're thinking.

The short answer to your question is, I would take all the issues in that melting pot, I would sort through them and I would pick out the ones that are the critical ones to deal with now, and then I would temper some of the amendments you're doing, such as charging user fees for the ODB and I would look at it, as Pam had said, in context with what these other people are facing.

If our ambition is to reduce usage of ODB and get these people to go back to their docs to reduce the medications they're on, if that's really our principal, underlying rationale for that, is there a better way we can do it without penalizing them financially? That's what I would do.

The Chair: Thank you very much. Mrs Caplan, you get the final kick at the cat tonight.

Mrs Caplan: Thank you very much. I also share your passion. While I don't agree with all your solutions, I think that the opportunity to have this discussion and this debate is extremely important.

What I was most moved with was your excitement at being able to come before a committee, and one of the things I feel very strongly about is that that is an essential part of our democracy. There are hundreds of people who want to come before this committee who cannot be accommodated. We haven't even advertised and there are hundreds of people across the province who have applied to speak to the committee in the 11 cities we're going to and we can't accommodate them.

One of the things we are trying to do is ask the government to reconsider. We recognize there may be some things that they must have by January 29, but I think, as you look at this bill, as you've said on your critical path time line, there are many things for a little bit of extra time for people like yourself to have the opportunity to express your views before this committee and to have the thrill of participating that you had tonight.

As you sum up, I'm going to give you the opportunity to make the pitch and try and convince the government members. They voted against a motion that would have asked for consideration for more public hearing time. By letting them know how important this was to you and to the hundreds of people who don't have this opportunity, but who want to come, would you try and convince them to allow us more time.

Ms Bugeja: I would have to agree. This legislation is so massive. In one way it's political genius to wrap it all up in one so that it's all or nothing, but I do believe there are various sections within the legislation that need to be addressed.

Frankly, in legislation that's so all-encompassing, that affects everybody in every walk of life, I don't think you can give this the bum's rush, and this is what's happening: You're giving it the bum's rush. You're not giving

people enough time.

On the one hand, I appreciate that if you give people too much time, the event kind of trickles and nothing gets done. Okay, Jim Wilson's remarks to your committee on Monday highlighted that we've allowed so much time for process, that nothing ever get done. But I think there are some elements we should be able to extract that you want to address now and there are some elements that we need more careful study of, or at least opportunity for people to provide input.

I knew of these committee hearings because of working in the sector. I kind of heard it through inside

ing in the sector, I kind of heard it through inside

information, but not everybody is so lucky and by the time they signed up for Toronto, there were like 2,000 people on the list. It's absurd. When I heard that it was on, I couldn't believe it. I really, really was excited because I get excited working with providers in the system. I get excited seeing them change. It can be done.

The other thing I'd like to caution you about is that what you observe in the medical profession at one level, please don't assume is the same in the medical profession at the other level. I see change happening every day with the docs I work with. I all them my guys; it's a generic term, but they're my guys and they're my guys in the north and they're my guys in Windsor and they're my guys in Toronto.

I see that change and I see them working in change and it's difficult for them to change because their training does not allow them to change that easily. Their training makes them very introspective and quick-fix mentality, and macroenvironmental changes are difficult for them

but they are capable of doing it.

Please do not think that what you're dealing with at one level is indicative of how the whole profession is. Don't bash them over the head. Give people an opportunity to comment on this bill. I think people appreciate the financial urgency of the budget, but from a personal standpoint, I really don't care about a tax rebate. If somebody else is suffering and somebody else's children are going hungry, I really don't care for 150 bucks or whatever it is. To me, it's like pieces of silver. I can't in any good conscience even absorb it.

Mrs Caplan: Thank you. Very eloquent. I appreciate

1t.

The Chair: We appreciate your interest in the committee process and have a good evening.

The committee stands adjourned until tomorrow morning at 9 o'clock.

The committee adjourned at 2100.



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*Carroll, Jack (Chatham-Kent PC)

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Kells, Morley (Etobicoke-Lakeshore PC)

Marchese, Rosario (Fort York ND)

Sergio, Mario (Yorkview L)

Stewart, R. Gary (Peterborough PC)

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Caplan, Elinore (Oriole L) for Mr Sergio
Clement, Tony (Brampton South / -Sud PC) for Mr Kells
Ecker, Janet (Durham West / -Ouest PC) for Mr Stewart
Gilchrist, Steve (Scarborough East / -Est PC) for Mr Kells
Lankin, Frances (Beaches-Woodbine ND) for Mr Marchese

Also taking part / Autre participants et participantes:

Castrilli, Annamarie (Downsview L)
Curling, Alvin (Scarborough North / -Nord L)
McLeod, Lyn (Fort William L)
Rae, Bob (York South /-Sud ND)
Stockwell, Chris (Etobicoke West / -Ouest PC)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Campbell, Elaine, research officer, Legislative Research Service Drummond, Alison, research officer, Legislative Research Service

^{*}In attendance / présents

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Legislative Assembly of Ontario

First Session, 36th Parliament

Official Report of Debates (Hansard)

Thursday 21 December 1995

Standing committee on general government

Savings and Restructuring Act, 1995

Health issues

Chair: Jack Carroll Clerk: Tonia Grannum

Assemblée législative de l'Ontario

Première session, 36e législature

Journal des débats (Hansard)

Jeudi 21 décembre 1995

Comité permanent des affaires gouvernementales

Loi de 1995 sur les économies et la restructuration

Questions concernant la santé



Président : Jack Carroll Greffière : Tonia Grannum

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 21 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Jeudi 21 décembre 1995

The committee met at 0902 in committee room 1.

SAVINGS AND RESTRUCTURING ACT, 1995 LOI DE 1995 SUR LES ÉCONOMIES ET LA RESTRUCTURATION

Consideration of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda / Projet de loi 26, Loi visant à réaliser des économies budgétaires et à favoriser la prospérité économique par la restructuration, la rationalisation et l'efficience du secteur public et visant à mettre en oeuvre d'autres aspects du programme économique du gouvernement.

AIDS COMMITTEE OF TORONTO TORONTO PEOPLE WITH AIDS FOUNDATION

The Chair (Mr Jack Carroll): Our first presenters this morning are, from the AIDS Committee of Toronto, Joan Anderson, the interim executive director and, from the Toronto People with AIDS Foundation, Eric Dow, the executive director. Welcome to our committee. You have half an hour to use as you see fit. Any time that you allow for questions at the end will be shared evenly, beginning with the government. The floor is yours.

Ms Joan Anderson: Thank you very much. We want to make a few brief notes and then allow for questions and discussions. I want to focus in on a couple of issues, primarily the hospital restructuring and the issue of privatization. This afternoon you'll also have an opportunity to hear from AIDS Action Now, and they'll be dealing with a number of the issues related to the drug benefit plan and physician billing. What we've tried to do is to divide up issues so that you have an opportunity to hear from a number of organizations on a variety of concerns that we have about this bill.

To begin with, we want to be clear that we have concerns certainly about the entire process and the entire bill. We feel there are fundamental issues involved in this bill. The topics range over everything from mining through to health care. We feel that it would be a more appropriate tack for the government to take to divide up some of this bill and to allow for more meaningful consultation on specific issues and specific areas.

There is a tremendous amount of expertise, range of expertise, that you're being called upon to have and the government as a whole is being called upon to have, and we really feel that the kind of undue haste that is being taken and the combining of such a diverse number of issues is not the best way in which decisions are made.

We understand the intentions of the government in terms of the urgency you're feeling because of the economic situation. It's certainly something we are all experiencing and we all feel as well, but this kind of haste does not necessarily make the best decisions.

For our part, we're concerned because we certainly haven't had enough time to analyse the potential full impact and implication this bill has for people with HIV and the many communities at risk of HIV infection. What we see is that action could happen and in the coming years we're all going to experience the impact and outcomes that with some more thought and consultation we could have avoided. We understand you're trying to solve problems, but we're concerned about creating more problems.

With that as a beginning, I'd like to focus in on a couple of issues. I think the basic premise of this bill is stated very clearly up front, that the purpose of the bill has to do with achieving fiscal savings, it has to do with an economic agenda. From our point of view in terms of the issues in health care that this bill represents, we're very concerned that decisions need to be made in a combination of fiscal responsibility and achieving good health care and good quality health care and equitable health care in our society.

The language of this bill says to me that the priority for the decisions will be economic and not the health of the citizens of this province. That is a real concern when you're providing such unlimited powers to cabinet and ministers. I have no sense, when I read this legislation, of the appropriate structures, checks and balances being put into place, again to ensure that you get the best decisions that come from a combination of experiences and expertise and not just the experience and expertise that sits around any particular cabinet table by any particular government at any particular time.

The example I like to use is looking at the hospital restructuring issue. In previous governments a lot of consultation was done, for example, on the Public Hospitals Act. Many of us came and did briefs and did deputations on that issue. A lot of the deputations and a lot of the input talked about shifting care into the community, that we need a greater amount of care in the community and that hospitals need to become more accountable to their communities. This act says to me that hospitals will simply become more accountable to cabinet and that the distance between hospitals and communities will just continue to grow.

The real-life example that we're working with is the Wellesley Hospital in our community. It's a hospital that at one point used to be out of touch with its community. That's no longer true. It has put into place consultations with many segments of the community and has developed

services that are meaningful and relevant. We know this is true for the working poor and the poor that live in that area. We know that is true for people living with HIV in our area.

The Wellesley has developed, with our help, with the help of the community, a model in terms of health care that involves a continuum of care from emergency, inpatient, outpatient and into the home. We're very concerned with the decisions being made quickly where we may see services completely eradicated in that community, such as emergency and inpatient, without the appropriate support in shifts into home care and community care. We're seeing home care also being downsized. So the continuum of care that has developed we see as going backwards in time to 10 years ago when services and care were fragmented.

Fragmented care ultimately is more costly care. If people receive the care they need when they need it, they're able to manage their illnesses and contribute and be part of their communities for a much longer period of time.

Community care also involves preventive care, not only of illnesses but of infections in the first place. We're very concerned about the kind of dislocation we know our communities will experience if decisions are taken that these services are eradicated without any appropriate substitutes and without due process.

I'd just like to spend a moment in terms of our concern in changes that are proposed to the Health Care Accessibility Act, taking away the preference for non-profit Canadian operators. Again, we would like to see much more exploration and time and consultation on this issue before actions are taken. What we're concerned about is what we hear in the rhetoric and see in the potential in the bill for a two-tiered health care system.

The changes in the Health Care Accessibility Act look to us like an opening to hospital user fees. There is a lot of documentation, there are lots of studies, that indicate that user fees deter people from receiving the care when they need it. If they don't receive it when they need it, they will become more ill and the costs will be greater both to them as individuals and to society as a whole.

I have a sense from the language I hear and the language of this bill that there's a sense that economic agendas and the market will always produce the best results. We fundamentally disagree with that notion. The market does not always produce the best results when you're dealing with the health care of your citizens. It may work in terms of airplane competition or phone competition, but that's not what we're talking about. We're talking about quality of care for all citizens in Ontario.

We ask you to reconsider these issues. We ask you to give them the appropriate amount of time they deserve. What we're concerned about is the Minister of Health, that instead of being expected to be an advocate for health care around the cabinet table, he will have to become a financier and economist, and the health care of people in Ontario will suffer.

I'd like my colleague, Eric Dow, to speak to another aspect of the bill.

Mr Eric Dow: Good morning. I'm Eric Dow, the executive director of the Toronto People with AIDS

Foundation. As Joan was saying, ACT, AIDS Action Now and PWA have gotten together and looked at different pieces of the bill because it's such a large bill. There's no way that one of our agencies is able to look at all of it. We haven't been given enough time.

I'm here representing over 4,000 men, women and children living in Metro Toronto with HIV and AIDS. I also understand about zero-balance budgets; that's how I operate the foundation. But one of my concerns with what's happening with this bill is that when I do a zero-balance budget at the foundation, the balance that I'm taking into account is not only dollars but also the needs of our clients. My concern is that this bill doesn't take into consideration the needs.

One of our biggest concerns is the issues around confidentiality. With the proposed changes the minister can collect, use or disclose personal information, the minister can enter into agreements to collect, use or disclose personal information and the licensee or other person can provide certain information, including personal medical information, to the director.

The bill also will provide the Minister of Health with a wide power to collect, use and disclose personal information, which may include information disclosing the type of medication prescribed for purposes related to the administration of the act or for any other purpose prescribed by regulation. The bill will significantly weaken the existing provisions under the act for protecting the confidentiality of medical records and for preventing their disclosure. Under the bill the minister would have the authority to enter into agreements to collect, use and disclose personal medical information concerning the provision of insured services.

In talking with the clients of the foundation and the volunteers and the staff, and 75% of our staff are HIV positive, the big question that kept coming back to me was "Why?" We don't understand why the minister feels he needs these powers and it hasn't been explained to us as to why. So there's a lot of fear. Why does a Minister of Health need to have access to all of this type of very confidential information? The discrimination and stigma that people with HIV and AIDS have faced in Ontario makes us extremely nervous that this information is going to be made available, especially for young people. One of our concerns is that fewer people will be willing to get tested. Right now they can get tested anonymously, nonnominally or nominally, but if this goes through, it doesn't matter how they're getting tested, the Minister of Health and others have access to this information.

The other concern is that many people may not be seeking the medical attention that they need. The concern for the Progressive Conservative government, to me, seems to be a lot around cost and the cost would increase if, for instance, I chose not to go and seek medical attention. Then, as I became more sick, I would need to be hospitalized. It costs a lot more to hospitalize me than it does to maintain my health, so costs to society as a whole increase.

One of the other major concerns for the foundation would be the implementation of user fees, but AIDS Action Now will be dealing with that later this afternoon.

Ms Anderson: Questions?

The Chair: We've got about five minutes per party,

beginning with the government.

Mrs Janet Ecker (Durham West): Thank you very much for coming. I know all of us were a little late getting in here and you were here right on the dot of 9, so I apologize for that. It certainly does not mean any lack of interest in what you have to say and I think you've made some very cogent points.

One of the things you probably do know: I understand that the Minister of Health has met with organizations from the AIDS community and has talked about his desire to keep it a priority in terms of funding and to try and find savings in other areas to reinvest in the AIDS area, which would probably be very helpful because, from past work I have done, I certainly understand and appreciate the need for special care in this area.

You mentioned hospital restructuring. I just wanted to be clear. I thought what I heard you say was that there has been hospital downsizing already, loss of beds and whatever, but you hadn't seen the reinvestment in the front-line community care services that you wanted. Is

that what I heard you say?

Ms Anderson: No. What we've been seeing is some downsizing already in terms of home care, and home care, for us, is where the real growth needs to occur. We understand there is not as much need for as many hospitals, so we're not against hospital downsizing overall. But again, we want real care taken in how that's done.

The decision that's before the government right now of the potential of closing the Wellesley model is causing us incredible concern because we don't see that as responding to the community needs. A certain model has developed there that combines the kind of inpatient and outpatient pieces and continuum of care that over the last decade we've said is the kind of model we wanted to work towards. And so now we see that potentially that's up for destruction. I think what we're asking for is that in terms of hospital restructuring, great attention be paid to the continuum of care, that people need support at all levels. Granted, there are more inpatient beds in Ontario than we need, but again, great care needs to be taken about which pieces of that get lost.

Mrs Ecker: Good point. The difficulty governments have in terms of wrestling with this is how to make that shift, and I think you've flagged an important area of discussion here in Toronto. A community-based planning process under the district health council here in Toronto that's been ongoing for quite some time has brought forward a plan that they believe is community-based and community-driven, and they're asking the Ministry of Health to implement that. You're expressing concerns that you believe the community-based process which the minister would like to accept the recommendations from has a hole, has a gap, has a problem with Wellesley. How would you recommend that the minister should be trying to get those recommendations from the community in order to implement them, in order to shift the resources to community care?

Ms Anderson: I think the process of the district health council was a really important one. What we were concerned about in the process, though, was that what that process has to do is highlight—okay, you've done

this planning, you've done some really good things, but where are the weaknesses? You need those checks and balances.

0920

To this point, for some reason, district health council for us hasn't paid enough attention to what the major weaknesses are in the plan. We believe in this process where you have the community consultations, you go through district health council. The minister himself can, through his own consultations and what he hears in district health council, weigh all of those things together and, we trust and hope, make the appropriate decision.

What we're concerned about with this bill is, it seems to kind of jump over all of that and say that economic considerations are the priority and, in a sense, the minister must make that the priority. Where is the structure in terms of the consultation process? I have a real sense of

a lot of that being lost with this bill.

Mr Rick Bartolucci (Sudbury): It's very interesting that your concern is so great with regard to the privacy of information. Our next presenter is the commissioner and the assistant commissioner. I would suggest that if you have the time, you should stay around for his information and his presentation.

Could you give the committee and the government suggestions how they could improve that section of this bill so that the community you deal with feels confident

in seeking the support and the help they need?

Ms Anderson: To be frank, the powers are too great. That part of the bill needs to be taken out. To allow that kind of power at the cabinet level is simply inappropriate and it flies in the face of the kind of sacrosanct place which we put on confidentiality and the privacy we put on people's individual medical information.

If it's undermined at the cabinet level, that means it can be undermined at many, many levels. It's just too dangerous. Whatever the intentions are, whatever good intentions there may be behind that, it's much too

dangerous to allow it to stay.

Mr Dow: I think what you need to do is you need to guarantee the confidentiality of people living with HIV and AIDS. Jim Wilson, I'm sure, is a very nice person and he's not going to do anything evil with this information, but you haven't guaranteed us that he's going to be the only person who has it. He's not going to be the Minister of Health five years from now, probably. What you're asking us to do is to give up all of these guarantees of confidentiality to somebody right now we know but we're not going to know five years from now.

Mr Bartolucci: If you had your druthers, you would want that section of Bill 26 withdrawn completely.

Ms Anderson: Absolutely.

Mr Bartolucci: Secondly, you speak of home care. I too agree with you that that's where the focus should be. Again a suggestion to the government: How could they build that within Bill 26 so that, again, your community feels its needs are being addressed?

Ms Anderson: I think what we're looking for is the commitment, again, to continuum of care. What we'll be very concerned about is if we simply say the focus is home care, but we need the hospital backups. We need the labs, we need outpatient services as well. So what

we're looking for is that continuum of care support. I'm very concerned that certain structures will disappear, and then you're left in the community, but you don't have the appropriate supports either at home or the kind of backup supports you need in a hospital.

Mr Bartolucci: This may be a redundant question, but I think it's an important question that I ask in light of what you said. Do you feel that Bill 26 provides for long-

term protection for your community?

Ms Anderson: No. No, absolutely not. I think, again, it's situating so much power in a handful of people. We don't see in it a commitment to the kind of structures and consultation process that we know is important. We feel it is a step backwards. We've really struggled over the last number of years to try to move and help government move to a place where there's more community involvement in direction setting. This completely flies in the face of that. It sets all direction setting in one room with one small group of people. No matter how well intentioned those people are, they're not going to be able to make the best decisions without the appropriate structures in place and the checks and balances in place.

Ms Frances Lankin (Beaches-Woodbine): I appreciate your appearance here today and the thoughtful submission. I think your last comments were very important in terms of what this bill does in reversing the trend to giving people more access and more say in decision-making about the reform and restructuring of the

health care system, and that's very worrisome.

I want to touch on the privacy of information issue as well, because I well recall, going through the process of trying to establish the anonymous, non-nominal and nominal testing programs with the community, our major concern inside government and within the community was to ensure that there were means of testing that were completely anonymous so as to encourage people to come forward. There was a very large fear that many people were choosing not to be tested because of their fear of disclosure of information.

So I guess I have two questions. One, as you read the act, can you tell me how you think it affects those categories of testing and particularly the anonymous testing, because I wasn't sure how in fact those records get married up so that you would have a risk of disclosure? Secondly, even if technically we don't know the answer to that yet, what's happening in the community in terms of people's response to this information about the concerns of the bill?

Mr Dow: I think I'll answer your second question first. Not only am I the executive director of PWA, but I also am a founding member of Positive Youth Outreach. So young people are a really large concern for me. I think one of the concerns that I have about the reaction that I'm seeing is a lot of young people who are at risk for HIV are very tentative to begin with and are actually very afraid of going to get tested at all with what they're hearing, because they're not hearing any answers from the government. They're not hearing exactly what does this mean, all they're hearing is that we want this power. So they're very afraid of what the government's going to be doing with this power.

We haven't had a lot of time to study what's going on with these changes, so in the brief discussions that we've had around testing—and it was a lot of work to set up the anonymous and non-nominal and the nominal testing and to set up all of the anonymous testing sites—we're not really sure what the point is any more with the proposed changes to anonymous testing. If you get tested anonymously, but the Minister of Health has access to your medical file, where's the anonymity? It's not there any more. That's our concern around the testing.

Ms Lankin: You mentioned that you haven't had a lot of time to look through the bill and to understand it. I think both of you referred to that. That has been a consistent theme. You may know that yesterday I tabled a motion with this committee to ask the committee to recommend extension of the hearings and splitting of the bill, and that was defeated here. I was very angered this morning when I read in the paper that the Premier is just saying people should send in written briefs, because I can tell you, the hundreds of people who are trying to get on the hearings, if they all sent in written briefs in the last two weeks of the hearings—and I want people to know we come back here to Toronto and immediately go into clause-by-clause. I will take every waking minute to try to read every one of those briefs, but they won't all get read. So that's not real input.

I'm just thinking about organizations like yours with scarce resources. Here in Toronto you've got a bit more of a support network, perhaps the time to have been able to at least get a presentation together and come forward. What about some of the AIDS committees in some of the other communities? Are they going to have the resources and wherewithal to do the analysis and come forward and/or to do a written brief, as opposed, as you did today,

to come and present an oral presentation?

Mr Dow: I don't know how they would be able to. Just looking at the resources I have available to me with one of the larger organizations, I don't have the resources to be able to do that, so I don't know how a smaller agency in the north or in Windsor or Thunder Bay is

going to be able to do that.

Ms Anderson: I'm sure there will be at least a couple of groups out there that will manage to appear before the group, but it really is an issue. As we begin to analyse this bill and try to think through all the implications and all the ramifications, I cannot believe that you as a group or the government are going to have enough time in this process to be able to thoughtfully think through the potentials and the possibilities, so we'll end up kind of reaping the whirlwind at some point, and we're all very concerned about that.

We're also concerned about an undermining of the confidence in the government's systems in terms of things like confidentiality. You need to engage yourself in a kind of contract of trust with the citizens in Ontario. That's fundamental in terms of health care, and it's fundamental to have people access health care when they need it, in a timely way. The enormous powers and the disregard of the issue of confidentiality erodes that basic contract of trust with the community.

The Chair: Thank you very much. We appreciate your interest in our process and your presentation this morning. If you have any additional information to submit, we'd be pleased to accept that and consider it.

INFORMATION AND PRIVACY COMMISSIONER OF ONTARIO

The Chair: The next presenter is the Information and Privacy Commissioner of Ontario, Tom Wright, and with him, Ann Cavoukian and Sarah Jones. Good morning, and welcome. You have half an hour to use as you see fit. Questions would begin with the Liberals if you allow time for questions. The floor is yours, sir.

Mr Tom Wright: Good morning, members of the committee. My name is Tom Wright. I'm Information and Privacy Commissioner for the province of Ontario. Ann Cavoukian is the assistant commissioner of privacy

in my office.

I appreciate having this opportunity to share with members of the committee my views on the privacy implications for health care information of schedules F, G and H of Bill 26. Before I begin, I have to tell members of the committee that I'm sort of experiencing a sense of déjà vu here. I was in this very room, before the other half of your committee on Monday, wearing my information commissioner hat, and here I am today, and I have my privacy commissioner hat firmly in place, I can assure you.

Before I begin, I thought it might be helpful if I explain to you what an information and privacy commissioner is—and I will be brief—and a little bit about what

my office does.

As commissioner, I am an officer of the Legislative Assembly, independent of the government of the day, and I report to all members of the assembly through the Speaker. I was appointed in April 1991 for a five-year term by an all-party committee of the Legislature.

One of the roles my office has, and we've been given this by the Freedom of Information and Protection of Privacy Act, is to offer advice and comment on any proposed legislative schemes that the government puts forth. For the purposes of my remarks this morning,

that's exactly what I'm going to be doing.

What we've tried to do to assist the committee is to provide you with a letter in which we briefly outline the concerns we have with schedules F, G and H. But I think more importantly, and I hope in a way that will help all members of the committee, attached to that letter is a series of charts that identify the specific amendments with which we have concerns and—and I'd like to emphasize the "and"—suggested alternative amendments which address those concerns.

At that point, with your indulgence, I'd really like to publicly thank staff in my office who have worked very, very hard over the past several weeks in looking at the schedules F, G and H and putting together the amendments that appear in the charts attached to the letter this

morning.

It's important that I stress to the committee that I realize that reducing health care fraud is necessary, and I understand this is one of the major goals of these amendments. However, I also believe that in order to achieve this goal, it is not necessary to introduce measures which put the privacy of Ontarians at risk. What I hope to do through my remarks this morning is to demonstrate that privacy protection need not be viewed

as a barrier to eliminating fraud and achieving efficiencies in the health care system.

I think there are two basic truths about privacy. One, privacy once lost cannot be regained. Two, having anyone—and I emphasize "anyone"—collect, use or disclose your personal information without your knowledge or consent is an invasion of privacy. Whether that invasion is justifiable or not, and if so, under what circumstances, I think is another question, and perhaps is the question that is in a sense hovering around some of the issues I'll be raising this morning.

I think we could all agree that the kinds of information covered by the Independent Health Facilities Act, the Ontario Drug Benefit Act and the Health Insurance Act are among the most sensitive of all personal information. This is information from patient diagnosis, hospital records and prescriptions, which contain details about a person's mental health, disease history, ancestry, possibly genetic makeup, and more. It's because of the very nature of the information that I express my concerns regarding these amendments.

Simply stated, in my view, the amendments have the potential to significantly increase the amount of personal health-related information that will be gathered. I'll stop there just for a moment, because it's the gathering in the first place where I think we have to look very carefully about, does this information need to be collected at all? It's all well and good to put controls in place, and we have a privacy act and you could have other legislation, but once your information is in the hands of someone else, it's out of your control and it creates the risk of inadvertent disclosure. I'm not suggesting in any way that disclosure would be deliberate. I'm suggesting that if you put it in the hands of someone else, it's out of your control, and this possibility exists.

In addition to the gathering issue, I feel the amendments will increase the number of uses that may be made of this information and raise the possibility of new disclosures of the information. My sense is that most individuals, and I know you've heard from a number of them already, expect that when their personal information moves beyond their direct control, specific limitations and controls will be in place to safeguard it. The words used in the privacy field are "fair information practices" such as those which appear in Ontario's access and privacy acts, and they exist to frame these kinds of safeguards

that I'm referring to.

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But they also exist to remind us that the personal information being collected, used or disclosed belongs to the person to whom it relates. It is not the government's information. The government is merely the custodian of the personal information that an individual has entrusted to it. The previous presenter, in response to one of the questions, used the word "trust," and I think she was absolutely accurate. There needs to be this comfort, this trust, in place.

It's my respectful submission that with respect to the circumstances we're dealing with, with health-related information, there's an added twist. We provide information to government organizations very regularly. For example, we make an application for a driver's licence.

We make that application and it's one to one. I provide it to whomever it is in the Ministry of Transportation. I know that the Ministry of Transportation has that information about me. In the scenarios we're talking about under F, G and H, as the person to whom that information relates, I don't know that those records may well leave the office of a doctor or a hospital and arrive at some way in the hands of a government department. I think what that does is that it enhances the obligation as it relates to the kinds of amendments being considered in schedules F, G and H.

In terms of the kinds of concerns we have, I think it's fair to say that we have an overriding concern about the greatly expanded authority the amendments give to the ministry and other bodies through agreements to collect directly or indirectly, use and disclose personal information, and in a number of cases to exercise those powers through regulation. Something that really caught my attention as I read through the amendments were how frequently the words "or for other prescribed purposes...by regulation" appear. That kind of provision may actually provide the authority which limits the ability of the Freedom of Information and Protection of Privacy Act to provide the safeguards it was designed to give.

There seems to be a bit of a misconception about what the freedom of information and privacy act can really do. It contains exceptions, for example, around disclosure of personal information. At last count—in fact I counted this morning before I came—there are 14 exceptions in the legislation itself right now, the privacy act, which permit disclosure of personal information. So the notion that in some way the privacy act is this protector out there—it does provide the framework, but it does contain a long series of exceptions.

The amendments also give the Minister of Health the authority to disclose personal health-related information to any party who administers a law. Such parties are not defined, but would likely, I would suggest, include other ministries, other provinces, police forces and, presumably, private sector organizations.

Ontario, unlike the province of Quebec, does not have privacy protection legislation in the private sector. Quebec has had that since 1994 and is the first jurisdiction in North America to do so.

As well, there are circumstances where the organization in question is located outside the province, beyond the safeguards constructed through Ontario's laws. We are learning literally by the day just how much of our information resides elsewhere. I don't know how many people know, for example, that in Boston there's something called the Medical Information Bureau, which gathers medical information associated with insurance applications of people across Canada. It resides in Boston, and that particular state has no privacy protection. These are the kinds of concerns I want to bring to the attention of members of the committee.

More specifically, the amendments expand the already considerable powers of inspectors to gather identifiable information, particularly when it involves sensitive mental-health-related information. This has been a source of great discomfort for the individuals involved, and I believe you've heard from people who've made the same

comment to you. To expand the inspection powers as proposed will heighten the anxieties of these individuals,

In terms of leaving the committee with some thoughts around directions in which we could go, we feel that the objective of detection and reduction of fraud can be equally satisfied through the use and disclosure of anonymous health-related information; in many cases, information where the name or other identifying information has been deleted. By doing so, individual patient privacy would be maintained and, as we have noted, detection of fraud and, for example, professional disciplinary proceedings could still be carried out.

By way of conclusion—I don't want to intrude on the committee's time in terms of questions—having looked at the amendments very carefully, I think the source of much of our concern arises from the vagueness of a number of the proposed amendments. At the outset of my remarks I said that individuals have an expectation that their personal information, particularly health-related information, should remain confidential once it leaves their control. Recent public opinion polls continue to press the point that Canadians have an increasingly high level of concern for privacy in their dealings with government organizations. There is also the more specific concern around the confidentiality of medical records.

Quite frankly, I'm not surprised by the reaction that has arisen as a result of schedules F, G and H. I think it confirms the general concern that people have in this era of computers and electronic records around their personal information.

In think the other thing that people anticipate or expect is that their health-related information is strongly protected already. My office regularly gets calls from members of the public about their health-related information, and they're surprised to learn, for example, that hospitals aren't covered by freedom of information and privacy legislation.

So in both 1992 and 1993, in my annual report which was tabled in the Legislature, as well as in other correspondence with the ministry, I urged the Ministry of Health to make the introduction of access and privacy legislation for health care records a top priority, and I have continued to do so on a continuing basis. I believe that, in the long run, specific legislation to protect health care records is the best way to ensure that legitimate treatment, planning and auditing needs associated with this extremely sensitive information are handled in a way that also respects the privacy of individuals involved.

We were advised over the past two weeks that the province of Manitoba has now prepared a discussion paper that's been released around this very issue of specific health care legislation. They are doing, I understand, a similar restructuring of the system and they've identified this kind of legislation as a priority to the success of their efforts.

I pick up once again on the point of the previous presenter. What I think we're all looking for is how to be successful in what it is we're trying to do. To be successful, I fully agree that there has to be this element of trust and confidence. Otherwise things simply will not work, not because they're not good, not because they're not well intentioned, but simply because people have a level

of unease and discomfort. I think that is the kind of thing that we have tried to address in the amendments we have

presented with that letter.

Just by way of closing—I think it's always useful for me to do this—people involved in privacy are not—the classic description is Luddites. We are not anti-technology. In fact, over the past three years I have said, "Let's get out there and do what we can to make use of technology." We just completed a report with a similar organization in the Netherlands, the first international report of its kind, around privacy-enhancing technologies. They're out there.

I understand you had a presentation from George Tomko of Mytec Technologies Inc. Mr Tomko has also done a similar presentation for Ann and myself. There's a lot of potential for these kinds of technologies where you have anonymity. You still are able to meet the needs, for example, of positive identification or other things, but it can be done in a way that uses the technology.

I think that's how I'll close my remarks this morning.

Thank you for your kind attention.

The Chair: Thank you. We've got about four minutes per party for questions, beginning with Mrs Caplan.

Mrs Elinor Caplan (Oriole): I'd like to thank you on behalf of the people of the province of Ontario. You've provided a great service to them, and I felt that the letter you sent to the minister was extremely timely. I had a personal conversation with you and so I want to thank you personally for the advice that you gave me. I want you to know that I was not only insulted by the minister but dismayed at, I guess, his dismissal of the concerns that were raised. It was only your letter that actually brought this issue and gave it the attention so that the minister now seems to have been willing to listen.

When members call you, you give them advice and guidance, and I know that even though you are the expert on these matters, you were not consulted prior to this legislation being tabled. I feel that's unfortunate.

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I also want to state that you were very eloquent in your support for and understanding of the need to deal with the issues of fraud, and I think that you equally are supportive of the need to deal with issues of research and so forth—I see you nodding your head—and also your support for the new technologies that would allow for that to be done in a way that protects individual privacy.

As I may not get another opportunity to say it, I want you to know that our members of the committee will be guided by your advice as far as amendments are concerned. We hope that the government will follow your direction and advice, and we'll be watching closely to see

that it does.

But do you see any rush to have this done by January 29? Isn't this something where the government could table the legislation in the spring session, have it dealt with in the spring session with full public scrutiny? Isn't there time to have the comprehensive legislation, rather than the piecemeal approach that the government has chosen? Do you see any sense of the kind of urgency as suggested by this bill?

Mr Wright: That is, as you can appreciate, I think a very difficult question for me to answer. We have worked

to the time frames that the government has set as far as its legislation is concerned. We have endeavoured to provide the amendments. I think the amendments we've offered are thoughtful.

As far as the timing on it, my preference at the end of the day would be that there be something that specifically addressed health care information, because I think it will allow us to take the full advantage of things like technology. In fact, the privacy act is a very awkward instrument when it comes to privacy protection and health care information. It's not specifically directed to that kind of information, and I think the advantage then, again, of the specific legislation is that it will allow us to deal with all the policy issues that arise in a comprehensive way and, I think, give the kind of guidance that we all could use, certainly my office included, as far as where we're going on this issue.

Mrs Caplan: What we're asking the government and the Minister of Health in particular to do is to extract all of those parts of this bill that deal with those issues, the ones that you've identified primarily, and remove them from this bill, look at those policy issues and bring in a comprehensive piece of legislation. We all want to deal with it expeditiously, and we think it can be dealt with in the spring session appropriately. I'm hoping that they choose to do that.

My fear, and I want to know if you share my fear, is that if you do this Band-Aid, if you just amend this legislation now, it will put off the urgency to deal with it comprehensively and the next time we have another piece of legislation, we'll have yet another Band-Aid.

Mr Wright: The further risk is that you simply don't get to take as full advantage of what might be available by way of restructuring etc of the health care system as if you gave people the clear guidelines in one place.

We, as I say, have gone through this and, as I'm sure all members of the committee have heard, it's not easy to piece it all together in terms of what it actually means. I hope the charts we provided have at least made a stab at doing that, but I think it would be far simpler for all concerned if we could look in one place.

Mrs Caplan: Do you ever feel pestered by members of the Legislature who ask for your advice?

The Chair: Thank you, Mrs Caplan. Ms Lankin.

Ms Lankin: I have three specific questions. I'm going to be short with them and I hope that you will allow me to get all three in.

Mr Wright, Ms Cavoukian, it's good to see you both again.

You may know that a certain portion of the act dealing with independent health facilities removes the current preference for not-for-profit Canadian organizations. This has raised the spectre of for-profit American organizations coming in and delivering health care services in the broader public sector in Ontario.

I am informed that, through the process of the Krever commission, the head of a US-based company that had Canadian operations refused to come into the jurisdiction to respond to violations of confidentiality by its Canadian employers. Have you given any thought to what this means, the possible spectre of private sector, for-profit, non-Canadian companies operating in the delivery of

services that are currently covered under public sector pieces of legislation and confidentiality? Is there are any

further risk that this perhaps engenders?

Mr Wright: I think one of the points I made in my remarks was along those lines, that once you move into a more private sector delivery of services, which again I fully understand as to why you might want to consider that, you do open up the potential for how that information is going to be held, the kinds of confidentiality provisions that are in place, and I think there is a risk. Once again, the Freedom of Information and Protection of Privacy Act only applies to government organizations. The example I gave was that it doesn't apply to hospitals.

How I would see more comprehensive legislation, it would apply to health care information wherever it is, in the hands of an insurance company, in the hands of the police. Wherever it might be, there would be this kind of overall direction around health care information, which I think would address the kinds of concerns around, does

it matter where the organization resides?

The other thing that we have to remember is, we're not talking about pieces of paper any more. For all we know, we're talking about data banks. I gave the example of Boston; it could be anywhere in the world. It could be in Singapore, it could be in New Zealand. It no longer is a matter of a file, as you and I might think of it, going from a doctor's office to an individual who's standing there at the time. This is something that's going over a network.

I think the whole area of how you're even going to provide appropriate controls in that kind of environment—you know, we hear about offshore banks. Well, you can see offshore data havens developing as well. We're looking at a totally new development as far as health care information is concerned, and the concerns, I

think, similarly arise more greatly.

Ms Lankin: My second question is with respect to comments that you made which raise in my mind concerns about abuse of ministerial powers. That in fact was a question that was put to Premier Harris during the election campaign by the Ontario Medical Association, and he responded in the following manner: "The trend in legislation, both federally and provincially, has been to place excessive regulatory power in the hands of the minister and the cabinet." And he asked this question: "Who punishes the cabinet when the cabinet decides it's the law of the land."

You raise concerns about the vagueness of many of the amendments and the problems that will cause you as a privacy commissioner in doing your job in enforcing legislation. Could you elaborate on that, please?

Mr Wright: Sure. In fact, I have in front of me—and it comes from the chart that I provided this morning—Bill 26, dealing with the Independent Health Facilities Act. The particular section is on page 1 and it's section 37.1. It talks about the minister collecting, directly or indirectly—it says "for purposes related to the administration of the Independent Health Facilities Act" and two other pieces of legislation, and then goes on to say "or for other prescribed purposes."

That appears, as I mentioned earlier, in a number of places throughout the amendments, and I guess, the way

regulations work, we don't find out about it until after the regulation is in place. If you include the kinds of issues that we raised in the statute itself, it's there, it's clear, the public knows exactly what it is. I think there is a risk as far as regulation is concerned, particularly when you're dealing with this kind of information.

The Chair: Thank you, Ms Lankin. The third question, if you want to submit it to me, I'll see that it gets

answered.

Ms Lankin: It's a very quick question and answer.

The Chair: So were the first two. I've allowed you much more time.

Ms Lankin: You don't have any flexibility with a

witness as important as this?

Mrs Caplan: Can I move unanimous consent for that? Can we have unanimous consent so she can ask her question?

Mrs Ecker: Do we get equal time?

Mrs Caplan: Yes, sure.

The Chair: We're four days into the hearings. We've been very fair about the time allotment and we will continue to be. The time is up.

Mrs Caplan: I move unanimous consent to allow— The Chair: Mrs Caplan, I've made a decision.

Mrs Caplan: Can I move unanimous consent? Frances, ask for unanimous consent.

The Chair: For four days, we have been using the same rules.

Ms Lankin: Is there unanimous consent?

Mrs Caplan: Will you give her unanimous consent to ask her question?

Mr Tony Clement (Brampton South): Just to ask the question.

Mrs Caplan: Yes, and he can answer it when he's answering you guys. Let her place the question.

Mr Clement: No, no. We have our own questions.

Mrs Caplan: You're not going to let her put— The Chair: Who's speaking for the government? Mr Clement.

Mr Clement: Thank you very much for being here. In the spirit of freedom of information, I know that you have met with ministry officials on Friday, and I understand the officials found that a very fruitful meeting.

I thank you for your amendments as well. We certainly are looking for the qualitative amendments such as the ones that you proposed when we will consider amendments to this legislation.

First of all, I guess I've got two questions in the time allotted to me that I want to raise with you, both about schedule H, and firstly about the disclosure sections.

I've read section 29 of the old Health Insurance Act and I've read section 21, which has the replacement for section 29. The way I read section 29 in the old act, it in fact is broader in terms of its scope and its powers than the new section 29 that's proposed because the new section 29 has four subclauses saying what the information is going to be used for.

I know you're going to say that one of them is for other purposes that are prescribed, but there is a rule of statutory interpretation that says the section has to be read in the context of the previous sections. So I put it to you, sir, that in fact the old section is broader than the new

section in terms of its scope.

Mr Wright: I happen to have, courtesy of staff in my office, what I think is the existing legislation. I look at it and I see—please correct me if I'm reading the wrong section—that it talks about "with the particulars of his or her services and account that are required by this act" Is this the one that you're referring to?

Mr Clement: That's right, yes.

Mr Wright: Then I look at 37.1 in Bill 26 and what I read very clearly is—I'm not sure I have the correct section.

Mr Clement: It's section 21 on page 101, which replaces section 29 of the old Health Insurance Act.

Dr Ann Cavoukian: Did you say 21 or 29?

Mr Clement: Section 21, which refers to section 29. It's confusing, but section 21 on page 101 of Bill 26 replaces section 29 of the old act with a new section 29.

While you're following that, can I ask my next ques-

tion? Because I fear I won't have a chance.

Dr Cavoukian: I'd like to make a comment on that question, if I could. Generally speaking, and we don't, until we find the specific section—

Mr Clement: Maybe just take a look at it anyway.

Dr Cavoukian: What we should draw to your attention is that the previous legislation as well was very problematic from a privacy perspective. It is for that reason that the commissioner has met with the ministers of Health over time and recommended that specific privacy legislation for health care records be developed because of the problems with the existing legislation. So it's not that you begin from a place that is satisfactory for the protection of medical records.

Mr Clement: Fair point.

Dr Cavoukian: The changes you've recommended, in our view, don't diminish the existing problems to begin with. You must start from a position where you're dealing with a faulty piece of legislation that doesn't incorporate the necessary privacy protection, and then you're expanding on that.

The Chair: Mr Clement, your time is also up. Could

I suggest that since—

Mrs Caplan: We'll give unanimous consent to continue.

Mr Clement: I'm willing to live by the rules, Elinor.

Mr Wright: I've found the section.

The Chair: Could I suggest that those specific technical questions be put in writing and we forward them to you and we'll get answers?

Mr Wright: We'll be happy to, certainly.

Ms Lankin: Mr Chair, I'm interested in asking if you would try to find a way to facilitate an opportunity for the privacy commissioner to brief this committee on the technical aspects of the amendments he has proposed. We will have to be dealing with the clause-by-clause. I've already pointed out earlier today that with the hundreds of people out there, if they do write in, as the Premier has suggested, this committee is not going to have the time to read those. We've got very specific and technical amendments that we want to go a good job on. I believe we need a technical briefing, and I think in this circumstance the half-hour presentation has been helpful to

begin to pave the way, but we would require that kind of assistance. If that could be worked out, I think we would benefit and the legislation would benefit.

Mrs Ecker: Mr Chair, to respond to that, if I may. I note, by looking at the schedule for today and tomorrow, there are a number of vacancies that we don't seem to have people booked for. Perhaps there might well be time for an additional slot for Mr Wright, depending on what the schedule might be.

Ms Lankin: May I suggest if people can't be found for that, that's appropriate. I would remind you that we're culling through the list, the clerk is, and it's very difficult to schedule people on short notice, but if people do say yes on short notice, they need to be given that preference.

The Chair: We have people waiting to present. Could

I suggest we discuss this at 12 o'clock?

Ms Lankin: Fine.

The Chair: Mr Wright, you would be available if we could—

Mr Wright: I'm more than happy to assist the committee in any way I can. At this time of year it's extremely awkward. There are one or two staff members who simply are not available. I think we would be more help to the committee, if we were to provide that kind of information, if they could join with us. Otherwise, as I say, I'd be concerned, as when Mr Clement raised his question, that I might be fumbling a little bit to find the appropriate section. They might have it more readily at hand and it might make things move more quickly as well for the committee.

The Chair: Could we discuss it at 12 and then get back to you and set up a date that would be appropriate for you and for us?

Mr Wright: Yes, certainly; that's fine.

ONTARIO ADVOCACY COALITION

The Chair: Our next presenters are from the Ontario Advocacy Coalition: Orville Endicott and Patricia Bregman. Welcome to our committee. You have a half an hour to use as you see fit. Any time you allot for questions, we'll begin with the New Democrats.

Mr Orville Endicott: Good morning. I'm Orville Endicott, the coordinator of the Ontario Advocacy Coalition. My colleague is Patricia Bregman, who is legal counsel of what used to be called, and in fact still is on the front cover of our submission, the Advocacy Resource Centre for the Handicapped. ARCH has now changed its name to ARCH, A Legal Resource Centre for Persons with Disabilities.

The Ontario Advocacy Coalition, now in its 10th year, consists of close to 50 voluntary associations, most of which have as a majority of their members persons who have firsthand experience of vulnerability because of disability, illness or advanced age.

The coalition's primary reason for being has always been to promote the creation of an independent, publicly funded social advocacy system for people who are at risk of abuse, neglect or exploitation because of their vulnerability

Most of what we have to say about advocacy will of course be reserved for the committee dealing with Bill 19, which will hold hearings early in 1996.

We chose to appear before you today because we think we have developed over the past decade some valuable insights about the distribution of power in a democratic society, and because we see the omnibus bill as a very ominous threat to the balance between the government's dual obligations of governing on the one hand, and empowering citizens, especially those who are typically powerless, on the other.

The exercise of bringing in the Advocacy Act and our close involvement in the preparations for its full implementation was an example of how this balance can be struck. Admittedly, governments must maintain some control over the way things are done and especially over the amount of public money that is spent and over the

value received as a result of that spending.

What we want to say to you today has already been said very recently by the Ombudsman for the province of British Columbia. These are her words: "People are no longer prepared to let government act unilaterally or dominate their lives. People need to participate in decisions that affect their interests. They will strongly resist others making decisions on issues they feel are important. To be successful, social policies and programs can no longer simply be designed by a government official or department."

We think this movement towards citizen participation in public policy development is a recovery of the fundamental principle of democracy. It is a fragile movement, but we believe it is so crucial to the future of our free society that we urge you not to take any legislative or executive action to crush it.

Speaking of participation in the development of policy, I have to tell you our coalition has been particularly frustrated in its attempts to communicate with the ministry responsible for the advocacy legislation and related matters. Even with the assistance of the parliamentary assistant to the minister, we have been unable even to get an acknowledgement of letters we have written as early as July requesting a meeting.

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We had an occasion to meet the parliamentary assistant at a meeting on disability issues where he was a speaker, and he started off by saying, "It's very important that we hear from groups such as yours." The theme of his address was—again, these are his exact words—"Let's find our common ground and get to work on it."

We certainly appreciate that theme. Finding our common ground and getting to work on it is exactly what we want to do. We believe we can find common ground, not only with respect to the needs of vulnerable and impoverished people in our society, but also with respect to the need to trim the financial sails of the ship of state. We are the people with the greatest amount of experience in the art of doing more and more with less and less. The tools with which we do our work are very limited. The government has said it needs this legislation to give it the tools with which to restructure health and other social programs in order to eliminate the deficit. These, in this legislation, are quite clearly power tools.

Ms Bregman is going to focus on some of the specific provisions in Bill 26 which we believe will create too much government power over citizens and the services they require. She won't be able to touch on everything that is in our brief. She is responsible for the portions that she will be talking about. I urge you to take the opportunity to read it.

Ms Patricia Bregman: I appreciate being here and I will say that I was here last night watching some of it and I've been following them on television. I do, in the written submission, address some of the questions Mr Clement raised last night about the Health Insurance Act and the Canada Health Act. I'll talk about them briefly but they are more fully addressed within the text of this.

I want to start with an overview and talk about general problems we see. One is leaving power to regulation. Despite the government saying they have a red tape commission in place, this legislation adds enormous new powers. There's very little opportunity in terms of regulation for public oversight and there's nobody in this room who doesn't know what we've already experienced, the mistakes in regulations and the impact they have on the lives of people; in this case, people with disabilities in the social assistance system. We think that's particularly dangerous.

We are not suggesting that somebody is hard-hearted, but when you have a process that does not allow scrutiny—and I should add that not only was there no scrutiny of this legislation after the fact but the normal process of consulting before the act was not there at all. I think you can attribute some of the outcry about lack of

post-consultation to that.

I think you need to really think through the extent to which you give regulatory power in a process in which there is no public access and in which the doors, despite what we hear from the various ministers, are continually shut. Many of our member organizations have had the same experience as the Ontario Advocacy Coalition. They can't even get answers to letters and that's particularly disturbing. These are groups that said, when the government was elected, "We will work with you, we would like to try and work with you," and to have the doors slammed in the face is really disheartening to a lot of people.

Our second concern is the complexity of the regime you're setting up. Taken in pieces, some of it looks very good, some doesn't. But I don't see any sense of comprehensiveness of where things are going, how things will impact. You talk about tools. Really, what you're doing is giving yourself powers to restructure, but without an

overall restructuring plan in place.

For example, look at the copayments which are going to negatively impact on people. You've introduced, I can't even count the number of copayments and user fees. You've given yourself the power, where they seem to impose on a particular group, to pull back, but what do you do when you have a municipality and you have a hospital and you have a doctor and you have an independent health facility and a drug plan all putting these user fees on an individual? How are you going to decide which one of those groups doesn't get to charge their user fee?

That's going to have enormous impact and I don't see anything in this legislation that says how you're going to set your priorities if people become overtaxed. There's a real danger within this without having that kind of framework. I can't get anybody who can explain to me how it will work because clearly those with the loudest voices are going to succeed and everybody will convince you that they need their user fee in place.

Having said that, I'm going to move on to specifics in terms of health care. We see the change in the definitions and in some of the changes in the powers of the general manager as significantly undermining the universality of the health care system. I'm not going to read it but I have excerpted relevant sections from the Canada Health Act to remind people what it talks about in terms of accessibility, which says accessible on the same terms and conditions for every user.

What you have done in redefining "insured services"—moving away from "medically necessary" into saying "insured services are what the minister defines"—is setting up a patchwork in which different people are going to have different services insured for them. It may be age, it may be facility, it may be hospital.

I've outlined, and I won't read, two scenarios that we would see as commonly arising. They may look very complex and confusing to you, but let me assure you these are real scenarios that come up of somebody who needs a service covered in health facility A and a service covered by a different eligible physician. Where are they going to go and how are they going to get there?

You're really creating a system that is looking at defining services no longer as universal, no longer on the basis of being medically necessary but on the basis of arbitrary categories, on the basis of finance, and that is not a way to set health policy that's going to work in the long run.

Regardless of the need to cut—and we accept the need to change the way physicians are compensated—but by doing it in a way that puts in categories that are going to allow enormous differential, I don't think anybody has thought through clearly what is going to happen when patient A needs a particular service, particularly where he or she has complex care needs. I'd urge you to read the two scenarios with care and really think through, what would you tell this person when they come?

I have to say at this point that we're particularly concerned about the age discrimination aspect. I know it was raised that it was in the Health Insurance Act previously, but I think, as the privacy commissioner said, number one, because something is in previous legislation does not mean it's acceptable and, number two, the Health Insurance Act was passed prior to the charter, so there wasn't any way in which that could be introduced. We clearly think it's discriminatory.

The Canadian Bar Association has done a very good analysis of the charter implications, which I can't give to you but perhaps they will give to you, that really raise the issue. I'm not trying to give a legal opinion at this point—I don't have time—but look at it very carefully. We think it will not stand up. I have brought with me and I'll circulate copies of an article about the Roberts decision, which was referred to yesterday and may give you a better insight into that case and what the Court of Appeal said in that. I've got it with me and I can pass it around.

The other part we're concerned about is this change in the general manager's ability to refuse to pay for services that are not only medically not necessary but therapeutically not necessary. It was raised that this is not very different, but we think there's a fundamental difference in this change. Medically necessary, you can have clinical guidelines and standards. Therapeutic is new. You only add new words to legislation if you intend to change what it's doing and the only logical reason, unless it's redundant, that you would add "therapeutic" is to narrow it.

Our concern is that where we're dealing with people with disabilities, whose lives are often undervalued—and all you have to do is look at the coverage of Robert Latimer to know about how people undervalue the lives of people with severe disabilities—"therapeutic" will become "Do I think that person's quality of life is worth living?"

I've referred to Oregon in here because in Oregon that's exactly what happened. In the Americans with Disabilities Act they could not go forward with a system that said you can look at quality of life and the "therapeutic" value of something. It's discriminatory and it may lead to people not being treated.

We have already been getting phone calls from people in Ontario: a paraplegic, for example, who is not terminally ill, who went to a hospital with pneumonia and the hospital said to his wife, "He's probably too much trouble for you and we don't think we're going to treat his pneumonia." That to me is something that is going to happen with increasing regularity if we allow this change and allow them to determine what's therapeutic.

I point out in the brief that part of the problem is we have no access to the whole process of decision-making as to what's medically necessary. Is the general manager, for example, going to tell patients that the care they received was not medically necessary, was not living up to the standard of care? Is the patient going to be able to make submissions to the general manager and say, "My quality of life is not what you might think it is, but it's important to me"?

You may have seen recently the profile of Judge Sam Filer, who has got ALS. He's lived for nine years and watched his son get married last month and watched his daughter grow up. He was told to die. They wanted nine years ago to disconnect the respirators.

We need to really think this through, what the impact is going to be. It doesn't mean you can't make changes. Our concern is that you're racing ahead and making changes that are really going to have significant impacts on people, that nobody's thought about, nobody can deal with.

One of the big gaps in the act that we point out is that, as we go through all these user fees and changes of rules, you have not given the minister any authority to make exceptions. When you move into a categorizing system, which is what you're doing, what happens to the people outside the category? They're not going to get care or, alternatively, they're going to have to pay for their care.

I'm trying to give you the highlights from here, because I think it's really important that you understand that this is not something that is simply a matter of

changing the rules and suddenly we're going to save all this money. In the long run, it is going to cost you

money, because people will not get treatment.

In the US now, for example, in the managed-care kind of system you're introducing, I have a friend who couldn't call 911 without first calling for permission, because the doctor said it may not be medically necessary. "I won't be reimbursed so I'm not going to let you do it without calling first." I think we have to be wary of moving into a system that tries to micro-manage to that level. There are ways to deal with misuse and overuse of the system, and I think there are different ways. We would certainly be happy to work with you on ways that can do it without being discriminatory and without jeopardizing the lives of people with disabilities.

I'm going to skip ahead now and talk about one other piece, and that has to do with the Advocacy Act. One of our concerns is that we are now going to have a system with all kinds of new rules. They're going to be greeted at the door of a hospital and be told, "You have to pay this," and the doctor is going to say, "I can't do this for you." There's nobody there that's going to be able to speak for them. We are getting enormous numbers of

calls from families and from other people.

At the same time that you repeal the Advocacy Act, saying it's interfering with the decisions between families and doctors and the health care system, the government has moved to go in and interfere and step into those decisions with blunt edges, and we're beginning to wonder if maybe the repeal of the Advocacy Act was not coincidental with this. This is far more intrusive. If you really want to get out of the lives and the decision-making, I think you really have to think through what

you're doing here.

Finally, on the freedom of information act, I worked for the Krever commission many years ago and have followed this for a long time. You need to think through, in particular, the personal information charges. You're going to be collecting information about people, making decisions about their benefits, deciding what they can do, and not giving people access to the information even to be able to make corrections about what you're making decisions on. It makes no sense. The people who are most going to be affected again are not going to be able to have access.

I urge you to read the rest of it. I've tried to go through it to leave some time for questions. I think everybody knows we're available for further discussion or suggestions or comments on amendments. We think this is fundamentally important and we really would like to contribute in a positive way, and not see our constituencies hurt in the way that we fear they're going to be hurt right now.

The Chair: Thank you. We have about four minutes per party for questions, beginning with Ms Lankin.

Ms Lankin: Thank you. I would appreciate it, if you do give some thought to specific amendments, if you would share that with the committee, as we'll be working and developing amendments. I will take the time to read through your brief, and I'm sorry that there's not enough time for you to present that thoroughly.

I want to start with a question to the minister's parliamentary assistant, just a clarification if I can. You raised

their concern of section 12 of schedule H, which amends section 18 of the Health Insurance Act. The old provision allowed the general manager to deny payment for services if they had reasonable grounds to believe that all or part of the service was not medically necessary. The amendment adds the words "or therapeutically." Could you tell me why the government is adding the words "or therapeutically?"

The Chair: Mrs Lankin, Mrs Johns is here as a regular member of the committee, not as the PA for the

Minister of Health.

Ms Lankin: Who's here then carrying the bill that we could ask for that clarification?

The Chair: So far we've been submitting questions to the Chair and we've been getting answers from the ministry.

Ms Lankin: Normally the PA carries the legislation. The Chair: In this particular instance, there isn't—

Mr Bartolucci: As a point of information, Mr Chair, clearly the member on the other side has offered her viewpoint as the PA in past presentations, so would it not be most fitting that she be given that opportunity to answer the question?

Ms Lankin: It's a clarification.
Mr Bartolucci: It's just clarification.

Mrs Caplan: That's right, and I have to tell you, in the 10 years I've been here I've never seen a bill go through without someone carrying it on behalf of the government. It's a point I made the other day. The parliamentary assistant is here, and it's her obligation to speak on behalf of the minister if there's a question on this bill.

The Chair: In this particular situation we are here to hear deputations from the public. You have been presenting questions to the ministry through the Chair, and

we've been getting back answers quite rapidly.

Ms Lankin: This is a very quick question. The parliamentary assistant is here. She said the other day when she came back and took exception to the member for Oriole's comments that when she wasn't here she'd ensured that Mr Baird had come in to take her place to carry the bill, and she's back now. She indicated that. It's a very simple, quick question. I just wanted clarification before I go on to ask a question of the people participating.

The Chair: Do you want to take a five-minute recess?

Ms Lankin: For what reason? Why?

Mr Bartolucci: Can we discuss it during the recess? Mrs Caplan: Mr Chairman, you don't take instructions from the government. You're the independent Chair of this committee. The standard of this committee is that if the parliamentary assistant is here—

The Chair: But I can make a decision to take a five-

minute recess, which I have decided to do.

Ms Lankin: Mr Chair, before you do that, please, I withdraw my question to the parliamentary assistant. I don't want to take this group's time up any more with a recess while you get direction on how to rule with respect to whether they answer a question or not. I'll go on with other questions.

The Chair: The committee is recessed for five

The committee recessed from 1026 to 1030.

The Chair: Just for your information on that final exchange, there is no requirement in the standing orders, despite the fact that there might be some-

Mrs Caplan: Precedent and tradition? Practice?

The Chair: I have the floor, Mrs Caplan. There is no requirement in the standing orders that anybody be here to carry the bill.

Mrs Caplan: I have never, ever seen that.

Mr Alvin Curling (Scarborough North): Never seen

The Chair: So based on that, Ms Lankin, you were in the middle of your questioning, and you have a couple of minutes left.

Ms Lankin: A couple of minutes left.

Mr Curling: You might as well just go away, then.

Ms Lankin: Ms Bregman, let me ask you, with respect to the Health Care Accessibility Act: You raise questions—and it's hard to get answers to questions, as you can see-

Mrs Caplan: Gross incompetence.

Ms Lankin: —with respect to the bill's stated intent to allow user fees to be charged on insured services provided in hospitals, and yet we know under the Canada Health Act that where there are user fees on insured services, there is in fact a provision for those to be clawed back and/or the dispute like we saw in Alberta. I have been unable to understand from the legislation what manner of user fees or charges could be put on insured services in hospitals that wouldn't violate the Canada Health Act.

Ms Bregman: Basically, I took a look at the Canada Health Act—and I thought I brought it and I didn't. The Canada Health Act will allow user fees on insured services in hospitals, but what they do is they claw it back. I'm having a great deal of difficulty understanding, then, why we are going to make people pay out of pocket, because the hospital, which is out the \$1.3 billion or whatever—you're going to lose the money in any case. In other words, it's not going to go against the deficit because the Canada Health Act, the federal government, is going to claw you back on whatever I pay.

That's my interpretation. You can get a legal opinion of the Canada Health Act. I'm not trying to give you a full legal opinion, but that is the provision within the Canada Health Act. It applies to both extra billing and user charges. Somebody has to look at that, because I have trouble with the fact that they don't limit what copayments can be in this legislation. It's clear it could be emergency services, drugs, whatever, because there isn't a restriction on what you can put user charges on.

The Chair: Thank you. Thanks, Ms Lankin.

Ms Lankin: Could I just place on the record a

question to the ministry to clarify-

The Chair: After your time for this particular section is up, if you want to submit the question, we'll take it. To

the government.

Mrs Helen Johns (Huron): Thank you very much, Ms Bregman, for being here. I would like to thank you for your presentation. As with the long-term care, you always make me think, and I appreciate that. I too worry about disabled people and have learned a lot about sickness versus just not being able to do things that the rest of us have. So I'm interested in your talk, and I'll read your document very fully as we move forward.

This is obviously a complex problem, and the government is really struggling to try and deal with a complex issue. I think some of the things that have happened are that the people have called for powers for us to be able to do some of the things we need to do, ie, restructuring. The Metropolitan Toronto District Health Council has asked for kind of exceptional powers for us to be able to get this done. We've tried for 11 years to get hospitals to deal with it, and we've been really unsuccessful. We've tried to deal with the doctor issues, and we've been pretty unsuccessful in that, having four years of unresolved resolution. So I guess from my standpoint, knowing how bright you are, I'm wondering, do you think that those powers are excessive, and can you see why we need those?

Ms Bregman: Yes, I do think they're excessive. I think there are things you need. Part of the problem with this legislation is that it's not enough time for people to really think through and come up with alternatives, and it's just too convoluted.

But I think what you've done has gone beyond that. You're really making fundamental changes. You're not simply giving yourself the power to deal with the doctors. I've worked in the health care sector for a long time, including health professions. I know the issues and I know the difficulties. But what you're doing is then going one step farther and now creating all of these new categories as to what insured services is going to be and who can do them. Nobody has thought through how this is going to work.

I was in the ministry for a year and a half on patients' rights issues. I can tell you that it's not going to work. You're going to end up with more of a patchwork system and overlapping and people not having services, and your minister is going to be swamped with people who say, "What can we do?" You try to exclude yourself from liability. I think you have to have some concern, and I raised it, that the kinds of decisions you're making are actually the kinds insurance companies make. I think you may have some problems with liability that you don't need to have.

I think there are ways of structuring what you want in a far more focused and targeted way and a time-limited way without having to fundamentally redesign what insured services are and how the various pieces are going to work together. I just don't see any justification for this whole package to go forth like that. You do need some power; that's fine. But I think you're going to in the end find you're hurting yourself to some extent.

I also have to say I think you're relying to some extent on the assumption—I don't know if you've seen the Liberty insurance ads, but I certainly have, in the paper, saying, "We'll pick up your extra."

The other thing you need to keep in mind with this is that people with disabilities often can't get insurance.

Mr Bartolucci: I guess my problem here as I sit and listen to all the presentations is, do you feel as if you're a part of this at all? Do you feel you have ownership in this at all?

Ms Bregman: I don't, and I think that's going to be a problem for people because people really don't understand. I can read and I'm articulate. My concern is it's extraordinarily hard to get information, basic information,

right now, and I'm not sure why.

I think this will change as the government gets used to being a government, but people right now can't even find out what the new rules are, and I think people are going to say, "What happened?" They're going to walk into their doctor's office in a hospital and their doctor's going to tell them something and it may or may not be accurate, but unless you do this type of change with education and input and a buy-in from people, it just isn't going to work. People are going to call up the minister and they're going to listen to every single person who tells them what's wrong. They're not going to have the facts, and we know that you can misrepresent things quite easily. That's what's going to happen.

Mr Bartolucci: I guess my biggest concern is, as I listen to the government members, that I don't think the people putting the legislation together understand the powers that they've given themselves. Clearly with the people that you advocate for, would you share that

opinion?

Ms Bregman: I think they haven't thought through the consequences and the interrelationship. That's been something that's haunted health care reform, and both ministers previously have tried to deal with it. We always work on bits of the system, and even though this is all-

encompassing, that's what's still happening.

I don't know if they understand the powers or not. I don't think, given the time it took to develop it and the time now, that anybody's really thought through, on the ground, how this is going to work. How am I going to take Mr X through the system? I think you have to test this kind of change on real people, on real situations, and with the people who are working at the grass-roots level with these people, to say, "Okay, if that's going to happen, what do we do to change it so it doesn't happen that way?" to avoid the unintended consequences which can be absolutely devastating.

People are really having a hard time now getting health care. More and more we're hearing: "We're not going to treat people with AIDS for pneumonia. We're not going to treat this." There's this all-encompassing, "The bottom line is everything." I think we have to send a message that, yes, the bottom line is important, but there are also other fundamental principles in terms of health care.

Mr Bartolucci: One final question. Do you not think it's critical that we split this bill?

Ms Bregman: Yes, I already said that.

The Chair: Thank you very much for your attendance. I apologize for using up more of your time than you had allotted to us, but those things do happen. We appreciate your attendance here this morning.

Ms Lankin: Is this an appropriate time for me to

table my questions?

The Chair: Yes.

Ms Lankin: I would like the ministry to respond to three questions for me.

First, with respect to the Ontario Advocacy Coalition's submission, page 11, scenario A and scenario B that they

set out, individual patients with multiple health problems and the effect of the redefinition of "insured services" and restrictions on what constitutes "eligible physicians," if they could look at those scenarios and indicate whether or not the perceived concerns are correct.

Secondly, section 12 of schedule H, which amends section 18 of the Health Insurance Act, which changes the restrictions on which the general manager can deny payment from reasonable grounds that services were not "medically necessary" to "medically or therapeutically necessary," adding the words "or therapeutically." I'd like to know what the intent of that is. If that could be clarified for us, it would be helpful.

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And with respect to the Health Care Accessibility Act, the question that's raised about user fees being placed on insured services in hospitals and the relationship of those actions to the Canada Health Act which Ms Bregman suggests, while allowing some user fees, would reduce the amount of payment the province receives. Could we find out if in fact that would be a potential outcome of any hospital introducing user fees on insured services as provided for in the amendments under Bill 26?

The Chair: Ministry staff have those questions. Okay. Mrs Caplan: I'd like to add one further small ques-

tion. It'll take just 30 seconds.

The Chair: Could we hold on that? We have some people that have given us their time. I think we'll hold the questions.

Mrs Caplan: I appreciate it. It just follows on Mrs Lankin's question and it will take me 30 seconds. I'd appreciate the opportunity to place it now.

The Chair: Carry on.

Mrs Caplan: What I'd like in a follow-up to the questions that Ms Lankin asked is not just what the intention of the government is regarding the scenarios that have been suggested by ARCH, but would this legislation permit—is it possible that this could occur, not just the intention but the possibility that those scenarios could occur? Thank you.

RUTH LUNEL

The Chair: Our next presenter is Ruth Lunel, seniors consultant and advocate. Okay. You have half an hour to use as you see fit. Any time you allow for questions will begin with the government. The floor is yours. Welcome.

Mrs Ruth Lunel: Members of the committee, in fact I feel very lucky to be here today. I asked for a copy of Bill 26 of my local MPP so I could go through it page by page, and I was refused unless I paid for it. I went to an opposition MPP and received it free of charge on Tuesday evening. So I haven't had too much time to go through this bill. However, I am going to make a deputation on behalf of over 1,800 seniors that I service within Metro Toronto.

My name is Mrs Ruth Lunel. In the past 12 years I have been working freelance as a seniors consultant and advocate registered with consumer relations of the government of Ontario. My range in this field is everything from pre-retirement seminars to the demise of seniors or handicapped.

This so-called omnibus bill is and has been very upsetting to many persons in nursing homes as well as housing. Privatizing of these facilities will very definitely increase costs to the consumer and many will not be able to absorb these costs. Health care and housing, as well as food and freedom of speech, is a human right, but one which you are, as a governing body, muzzling the general public from participating in.

Mrs Caplan: Absolutely.

Mrs Lunel: Numerous seniors and handicapped are upset because of the fees you have decided to charge for medication, even though you promised not to touch health care. Many will not be able to afford especially the dispensing fee for dumping pills from one bottle to another and putting a label on it, or in many instances just placing a label on an already existing bottle. The price for just doing this is \$6.11 per prescription. In regard to that, I am on nine different prescriptions, and for me to get those prescriptions filled, it costs me approximately \$73 before I even receive one of my doctor's prescriptions.

Meals on Wheels for seniors have already been increased from \$2.50 to \$4 plus packaging, and seniors are being asked to order a week at a time and also pay for these in advance. If they don't show up, the senior is

out of pocket.

Numerous seniors have no family members in close proximity and never worked, so the only income they have is old age security and guaranteed income supplement. Many have to rely on help from home care in order to live in a clean environment because of their disabilities.

Your government is actually causing real devastation in not only our senior population, but has cut off numerous necessary services which are there in order for these people to survive.

Would you do this to your own families? I do not think so. However, it behooves me to know who of a decent family would even recognize you who are now

our elected representatives.

Waste of funds for district health councils and committees, as well as the Golden report, could have been put to much better use, and I happen to make deputations on a

weekly basis to the district health councils.

Many of us who volunteer our services to help our fellow man will be placed into withdrawing our services as additional costs to us will make it impossible to continue. I can quote—we have lost 80 volunteers within the area of Scarborough to date because of this.

Mr Harris, volunteers will not take up the slack which you are causing in our society. Volunteers usually give freely of their services and costs of gas, as well as wear and tear on vehicles, are consumed by the owners. I know I spend as much as 60 hours a week and sometimes more without compensation.

The fact that you intend to give the Minister of Health the right to access personal medical records is a direct violation of privacy and of one's human rights and your position does not exempt you from possible court charges because of this.

It is not your right to tell persons where you can work or to designate areas, especially in the medical profession.

You may also believe that housing should not be included in the health aspect of this Bill 26, but it is in many instances very pertinent. Why? Because numerous seniors still live in the government housing and with your idea of selling off these facilities, many are really scared of losing their homes.

The lifting of rent controls is also a very upsetting factor and is already causing numerous health problems. As a matter of fact, a little over a week ago I got a call from a senior. I ended up taking her to the hospital because she had had a series of mini-strokes. They advised me to take her back home. I told her I was not taking her back home. Within two hours, that woman was dead.

The freedom of information act is a very necessary acquisition for the public as so much is hidden from the taxpayers by politicians and much is not above board. There are no other means of access to numerous records

to which the taxpayer has a right.

Mr Harris, your very dictatorial attitude toward the taxpayer who, in fact, is your employer, should have been more thought out and not been implemented so fast and furious. Dictatorship is not needed in Canada, especially in Ontario. However, before long our Canada will be worse than any Third World country. There will be more crime, street people and demonstrations.

Whatever has happened to government of the people,

for the people and especially by the people?

In Ontario, one is better off in the criminal element as they are at least not threatened by loss of their home, no food nor a warm place to sleep and clothes on their backs. Also, they maintain their privacy as to their records, as many taxpayers are being subjected to cutbacks in welfare which takes all of the above away from children and the handicapped.

The Harris government must be very naïve because are you not aware that housing is and was subsidized by the taxpayers, as well as federal funds? How can you think

that you can sell it out from under people?

Even I who have been independent all of my 76 years may not be able to maintain my home because of these

added fees to my health care.

And remember, head tax defeated Margaret Thatcher. Defeat came to Brian Mulroney because of his trying to index seniors' pensions. Also, David Horrox, head of Scarborough school board, was defeated because of his domineering attitude. All these people were Conservatives. The electorate will not forget, as Mr Horrox found out.

1050

I would also like to read you an item that we presented to Mr Horrox and it says:

"What is a taxpayer?

"A taxpayer is the most important person in a politician's life.

"A taxpayer is not dependent on us, we are dependent on him.

"A taxpayer is not an interruption of our work, he is the purpose of it.

"A taxpayer does us a favour when he comes to us, we aren't doing him a favour by listening to him.

"A taxpayer is an essential part of this office, not an outsider.

"A taxpayer is not just money in our pockets, he is a human being with feelings and deserves to be treated with respect.

"A taxpayer is a person who comes to us with his needs and concerns. It is our job to look after them.

"A taxpayer deserves the most courteous attention we can give him.

"He is the lifeblood of this and every government.

"He pays our salary and provides us with added luxuries that we could never obtain anywhere in the private business sector, like one third tax-free salary; free travel all over the world; severance pay when not reelected; early pensions before the age of 65 etc.

"Without him we would be out of our job, just plain

nobodies," and don't you people ever forget it.

The Chair: Thank you very much. We've got about four minutes per party left for questions, beginning with

the government.

Mr Frank Klees (York-Mackenzie): Mr Chair, perhaps I could lead off. Thank you very much for your presentation and I would just like to say at the outset that we certainly are very aware of the personal service that you've given to the community in Ontario and we want to commend you for that and, on behalf of the government, I certainly thank you for that.

I'd like to address a couple of issues that you've raised. I want to, for clarification, also point out to you that one of the great disappointments to us over the last month or so has been the degree of misinformation that has been circulating around the government's intent and around this act. One of the things that we're hopeful of is that through this process we can clarify some of those things

We also want to assure you that it's certainly not the government's intent in any way to negatively affect seniors in this province. In fact, we're convinced that the steps we're taking to ensure the financial stability of the province will in fact ensure that the seniors of our province are looked after and that the needs they have will in fact be secure.

With regard to your concern about the cost-sharing on drugs, are you aware that we are the only province in the country now that doesn't have some form of cost-sharing

on the drug plan?

Mrs Lunel: I travel right across Canada with seniors' housing and developing and one thing and another, and you can't tell me anything about my country of Canada, because I make it a point to find out exactly what's going on, where and when.

Mr Klees: I'm sure you are. The point that I wanted to make is that every other province in Canada has some form of cost-sharing and one of the things we're looking to do is to ensure that the seniors of our province in fact have the kind of safety net they deserve by ensuring that we bring some reasonableness into the cost-sharing around drugs.

I also just wanted to assure you that many of the—I would call it perhaps propaganda around the issue of the information of security—it's not the minister's intent to look at personal information regarding patients. The only thing we're doing in regard to that is extending the freedom of information access to those medical service

facilities that aren't now covered under the existing act. The minister is not taking any additional powers on to himself now that don't already exist in the act.

Mrs Lunel: Can I just bring a point up here, the fact is that I cannot have my doctor release my records to another doctor of my choosing without my handwritten consent. Now, why does the Minister of Health figure he

has the right to break that trust?

Mr Klees: He doesn't either, and it's only with regard to investigations regarding the possibility of fraudulent billings. Again, I think the important thing we have to understand here is that this is not about the government trying to access personal information, it's about the government ensuring the financial viability of the health system in our province. I think it's important for you to understand that.

Mrs Lunel: This leaves it open. Do they believe the billings from a doctor for patients? Because this puts the onus on the Minister of Health to definitely have trust in a doctor's decisions. If I don't have trust in a doctor, why do you people figure we should have trust in you?

Mr Curling: Mrs Lunel, I want to thank you for your presentation, your directness. One of the things that came out so blatantly is the fact that as you try to participate—because we know how difficult it was to have people participating in this process—as an activist, an advocate for seniors, you were told that you would be charged \$18 for that.

Mrs Lunel: That's right.

Mr Curling: What member—who told you that?
Mrs Lunel: Our new MPP in Scarborough, Mr Dan

Mr Curling: That is very unfortunate, because, you see, that is another part of shutting people out of the process.

Mrs Lunel: It definitely is.

Mr Curling: As a matter of fact, there are people who had gotten this bill who need two or three weeks to understand it, and you couldn't even get it. Do you feel in any way, with all this that's happening in the last couple of weeks, betrayed by this government?

Mrs Lunel: Definitely we've been betrayed, because nobody has had a sense of what has been going on. We got hit with this type of a bill. I got it a day before I came here from you, Mr Curling, thank you very much. I'm telling you right now, I still haven't had time to go through it the way I would like to. I guarantee you that when I get a chance to go through it, there will be another letter sent to Mr Harris. I am going to have a petition signed by every senior I can contact. I don't pull any punches.

Mr Curling: The minister made a statement here in his opening statement, an overview of what he intends to do. He selected individuals he said he has consulted with and whom he refused to consult with. One of the groups he said he refused to consult with is what they call "special-interest groups." To me, I try to put a face on

those. Has he consulted you?

Mrs Lunel: Not at all.
Mr Curling: And you represented quite a few seniors from time to time over the years?

Mrs Lunel: As you know, I travel all over Ontario because I am called numerous times because of lack of information that I seem to have access to, not only from various areas where I visit but also even from the federal government, that is not forthcoming from our own local politicians or especially the Ontario government.

Mr Curling: As a senior, and the questions that you get from the government side, do you feel that you seniors are the cause of this deficit? I understand that this health strategy here that they're doing is to tell you that the seniors were the cause, so we've got to put a tax on all the things that they do. Do you get that impression?

Mrs Lunel: Alvin, the seniors are not responsible for the deficit; it's very poor management by the government itself.

Mr Klees: That's an insult.

The Chair: Mr Klees, Mr Curling was nice and quiet while you were speaking, I expect you to extend him the same courtesy.

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Mr Curling: Do you feel that if we break this bill up. this huge omnibus bill, this power-grabbing bill, this very dictatorial approach to it—do you feel if the government would even try to break this bill up in many parts that it would assist us to understand it and to give better recommendation and advice to the government?

Mrs Lunel: If they put it in layman's language, as I tell many of the doctors to tell patients, it would be far more appreciated and more people would understand what the government was trying to do to them, and I think this is what is necessary.

Ms Lankin: Thank you very much, Ruth. It is terrific to see you again. It's probably been 10 or 11 years since I've seen vou.

Mrs Lunel: Over 10 years, Frances.

Ms Lankin: And you're still fighting away. It's

I'm going to be very gentle with the member who's just joined our committee across the way and just indicate to you that Mr Klees provided you with some information with respect to the freedom of information and protection of privacy provisions of the act that was incorrect. But you took him on pretty good on your own, so we don't need to go in and correct the record on his comments.

I'm interested in a couple of things that you said that I didn't understand fully but that disturbed me. One, you talked about the obvious importance of volunteers and the reliance that government has always had on volunteers, and this government sees an increasing role for volunteers, but you talked about the various charges and fees that volunteers are facing in different areas which are becoming a barrier to them giving of their time, particularly seniors. Could you elaborate?

Mrs Lunel: I pay for my own gas. I take seniors to and from hospital, pay parking fees. I also go and visit seniors, and Veronica here can tell you the trunk of my car has a cooler in it, and I am never without milk, bread, vegetables and staples, because I find many of the seniors do not have sufficient to live on, and they can't get out to go to the food banks or anything like that, so I fill in. I have my bills at home, and up to date, out of my own picket, excluding gas and wear and tear on my car, I have

spent over \$12,000 on other people. And because of these new changes, I am going to have to stop all that, and when it comes right down to it, God knows how these seniors are going to get what I have been providing for them. I don't know. I never knew what was going on in my own community until after my husband passed away and I took this work on. As you know, I was a union steward.

Ms Lankin: I remember. Ruth, you talked about the copayment, the user fee, on drugs and the problem that would cause for some seniors, and I think we all recognize it's more of a problem for low-income seniors than it would be for some others.

Mrs Lunel: It is.

Ms Lankin: The group that presented just prior to you raised the concern of this bill, in other sections of it that we're not even dealing with in this committee, giving more powers to municipalities to impose all sorts of user fees. The cumulative effect of all of that, and also the challenge—if one or two or three of these new user fees are income-tested and you're at that cutoff at \$16,000, what do you get charged for and what don't you get charged for? If you have new user fees for drugs and for libraries and for your Wheel-Trans etc. the accumulation of this is a real problem. Can you relate that to the seniors you work with?

Mrs Lunel: They tried that in England, and you know what happened to Margaret Thatcher. If they try it here in Ontario, I can assure you, there will be more demonstrations by the elderly than we ever had when we went to Ottawa with Brian Mulroney's act of wanting to index

seniors' pensions.

Ms Lankin: De-index, ves.

Mrs Lunel: There will be more of us out here on the park here than you ever saw in Ottawa.

Ms Veronica Hering: And they'll be supported by the people who live in housing, because we feel just as upset as seniors.

I just want to take this time to say that I'd appreciate if the government side would even listen to anything that's being said, because they've been talking the whole time and it's nothing but plain out rude.

The Chair: Thank you, Mrs Lunel. We appreciate your attendance here this morning and your involvement in the process.

ONTARIO MEDICAL ASSOCIATION SECTION ON PSYCHIATRY

The Chair: Our next presenters are from the Ontario Medical Association section on psychiatry, Dr Judy Hamilton and Dr Stephen Connell. Good morning and welcome to our committee. You have a half-hour to use as you see fit. Any questions would start with the Liberals at the end of your presentation. The floor is yours.

Dr Judy Hamilton: Mr Chairman and members of the standing committee on general government, my name is Judy Hamilton and I am the secretary of the section on psychiatry of the Ontario Medical Association. I am appearing today with Dr Stephen Connell, who is also a member of the executive of the section on psychiatry. I will make some introductory remarks about our work and

then three general points about Bill 26 and psychiatric patients and practice. Dr Connell will then make several more specific points.

We represent the 1,400 psychiatrists of Ontario, all of whom are members of the section on psychiatry of the OMA. As well as our organization, these psychiatrists are also members of organizations representing their areas of work, for example, the Ontario Psychiatric Association, the Association of General Hospital Psychiatrists, the Association of Mental Hospital Psychiatrists and the Toronto Psychoanalytic Society. All of these associations are represented on the section on psychiatry and all have active memberships and executives who are constantly trying to assess and improve the quality of care of psychiatric patients under their purview.

Psychiatrists are first trained as medical doctors, mostly in the universities of Ontario, and then take four years of specialty training in psychiatry in general hospitals, mental hospitals, research hospitals like the Clarke Institute and community settings. They train in the treatment of adults and children with psychotic illnesses, severe personality disorders, symptom disorders like obsessive compulsive disorder, and people who have experienced traumas like the death of a parent or sexual abuse.

Psychiatrists work under what we call a bio-psychosocial model, meaning that we understand the person from the comprehensive view of their biology, psychology and social influences, how these all affect each other and how the treatments interrelate.

For example, a not atypical patient these days is the depressed, to the point of suicidal, 60-year-old man who has apparently fainted while in a preoccupied state of anxiety over the possibility that he will lose his job. A psychiatrist is in a position to assess whether this man is experiencing only a psychiatric, depressive illness; whether he might also be experiencing transient ischemic attacks—that is, blood blockages to the brain—which caused him to faint; which medications he could safely use if he has this or other physical problems; and whether his symptoms themselves may be the result of medicines he's taking.

To introduce the social part of the assessment, the psychiatrist may have to assess the 17-year-old son of this man, the son who is failing and avoiding school, using regular amounts of marijuana, having severe verbal fights with the father and has started having unusually prolonged headaches. The psychiatrist must decide how many of this family he should treat, whether individually or in a couple or a group, with what medicines or psychotherapy, whether or not anyone needs further physical investigations or hospitalization.

From the period of training on, psychiatrists tend to work mainly in the community, mainly in general hospitals or in mental hospital settings. Many of those working in cities with universities do various amounts of direct teaching or supervision of residents, interns, medical students and other non-medical professionals. Many of especially child and adolescent psychiatrists consult to community agencies, such as group homes, while geriatric psychiatrists consult to nursing homes and homes for senior citizens. Because of the complex nature of this work, much of it involves a great deal of consultation:

consultation with other psychiatrists, other physicians, other professionals and agencies. One could say that psychiatrists are specialists in consultation, and at several levels, with individuals, families, groups, in assessing, planning and evaluating outcomes of interventions.

Similar to many groups who have presented to you this week, we are very sympathetic to this government's attempts to reorganize the delivery of essential health and social services in such a way as to cut costs and reduce the deficit. We understand and agree with the concept that the security of such programs in the future depends on the reduction of not only the deficit but the resource-eating debt.

One of our major concerns about Bill 26, however, is the impression given that it was constructed without consultation with the involved service providers. We are concerned that this might be setting a precedent of nonconsultation for the implementation of many features of the bill. Therefore, we would like to use our presentation to outline some reasons and areas within psychiatry which we think require and will benefit from consultation with psychiatrists.

For example, psychiatry has traditionally based its findings and methods on scientific principles and caring for people conceived of as sick and disabled. Our natural, scientific and attitudinal home is in the practice of medicine, and we have felt that this association was important, not only for maintaining the high standards of professionalism associated with medicine but also because this has served psychiatric patients well, much better than historically earlier conceptions of psychiatric patients as morally or religiously depraved or socially deviant or even gifted in clairvoyance.

Politically speaking, in Ontario and all other provinces, psychiatry has been part of the medical association, and as such has always had a relationship with the government and the public that has been negotiated. Bill 26 is planning to abrogate all agreements between the government and the Ontario Medical Association and manage the health care system more directly by regulations, cabinet decisions, adjudications by the manager of OHIP and so on.

Our concern about this aspect of Bill 26 is that by removing all the negotiating rights from us psychiatrists, this will expose our patients and their treatments entirely to the effects of the political process. This process would be the expression of both the government of the day, which at least has the authority and accountability of having been elected, and a relatively inaccessible, unnamed bureaucracy that also embraces ideologies and biases when it comes to health care in general and psychiatric illness and care in particular.

Now, this particular group of patients is especially prone to suffer from social and political prejudice, from lack of knowledge by other groups in society and from the promotion of false cures and misleading influences. Because a lot of the assessment and treatment in psychiatry occurs using everyday language and attending to people's thoughts and feelings, psychiatric patients are particularly subject to other people's thinking they know what's best for them, prescribing what is fashionable in

the lay understanding and lay press without an understanding of the person's whole condition. Even members of the Legislature and the Ministry of Health might think that they could recommend and regulate certain treatments they themselves have found useful.

Therefore, in the context of the changes proposed in Bill 26, we urge the government to think about how to protect this population of people, vulnerable in an illness sense, from the dangers that might ensue from direct exposure to the political process, both at the level of the government and the bureaucracy, and we urge you to think about how to promote and ensure accountability in decisions that are taken with respect to psychiatric treatments

Now, we don't think that the government, through Bill 26, is intending to get into the business of practising medicine, including psychiatry, but it does seem to be intending in a general sense to regulate the structures supplying medical care, including psychiatric care. There is currently an extensive program under way in the Ministry of Health directed towards mental health reform out of which changes in the structures delivering mental health care are being contemplated and, some hope, planned for. This planning process has consulted with very few psychiatrists, and this lack of consultation with psychiatrists in the area of mental health reform seems to us to be a harbinger, an indicator, of things to come under Bill 26. This is a particular problem in psychiatry.

For one thing, in psychiatric treatment the structure of the treatment is part of the treatment. For example, in physical medicine if a person has severe angina they require an ECG and perhaps an intensive care unit. But it does not much matter whether this takes place in downtown Toronto, in a suburb or even in a mall. However, for a person with a mental illness, certain structures or environments are not only not useful, they are harmful. This is documented in the psychiatric literature and is not obvious to the untrained. Hence, if there is not adequate consultation with psychiatrists, the ministry may find that it has phased out structures, certain kinds of groups and settings necessary for costeffective treatments and made generally available settings useful only to a small subgroup of psychiatric patients.

Another problem with the lack of consultation with psychiatrists is that current and former psychiatric patients, especially that large majority who have been successfully treated, are often unable or unwilling to identify themselves in public. That is, the consumers of psychiatric services are not generally available to the government for consultation and feedback. This unwillingness of these patients to identify themselves may be because of prejudice against psychiatric illness in families and in the workplace, or it may be because these patients often want to leave that distressing part of their lives behind and do not want to speak up and participate in activities predicated on their future possible need for psychiatric treatment.

Politically, this means that these patients cannot defend their needs and wishes for scientifically based treatments or fight for their share of health care resources. Therefore, we urge the government, in the context of the changes proposed by Bill 26, to consult with psychiatrists in matters of psychiatric structures and treatments.

Now I would like to turn over to Dr Connell, who will speak on some specific proposals in Bill 26 as they apply to psychiatry.

Dr Stephen Connell: It's very ironic that the Minister of Health said the following to the Legislature on July

26, 1993, and I quote from Hansard:

"They're going to go ahead and just ignore all the good things the OMA and other people in the health care system have helped to bring about in the last couple of years. The government admits that the medical profession in this province over the last couple of years has probably saved the government upwards of \$2 billion. They've done that through a system of negotiations, through the joint management committee, through this memorandum of understanding, through lengthy and legalistic processes that are set out therein.'

We want Mr Wilson, as Minister of Health, to consult with us. We have a lot to offer in a constructive partnership. We cannot understand why this government that talks about stakeholders and partners in other areas of funding would jettison so completely the consultation and negotiation process in the biggest area of government expenditure in the province.

I now want to address four specific areas of concern in Bill 26: hospital restructuring, confidentiality and the protection of privacy of psychiatric records, affiliation with a facility and manpower distribution. Those are the four areas.

Let's begin with hospital restructuring. Psychiatric patients are hospitalized to either a provincially run facility, such as the Queen Street Mental Health Centre, or to a psychiatric ward of a general hospital, such as the Wellesley or Toronto General or Peel Memorial.

As many of you know, there has been an emptying out of psychiatric hospitals of patients into the community over the past 20 years. Psychiatry has met this challenge by focusing more on community based care, consultation and networking with families and front-line staff of agencies who support and treat these patients. Mental illness is often insidiously chronic, however, with patients rapidly decompensating at times and suddenly they urgently need hospital beds.

In Metro Toronto, we're already short of these beds, and doctors have to spend hours sometimes hunting down a bed for a sick patient in need of admission or certified as having to stay in hospital because they're at risk of

harming themselves or others.

If hospitals are closed or downsized or merged, we are concerned that our patients won't have the psychiatric beds that they need. You can't put an acutely psychotic or suicidal or homicidal or terrified trauma victim on a waiting list like you can for elective surgery. 1120

We urgently need to meet with the Minister of Health to ensure that the needs of our psychiatric population are not abandoned when hospitals restructure or close or when he determines the type and volume of services to be delivered in a hospital. The issue is not one that the government or mental health reformers or the district health councils have consulted us on. We want to help

and be consulted to avert a crisis. Don't leave us in the lurch with our patients roaming the streets in danger. We want to be part of the solution.

Confidentiality: Trust and confidentiality are crucial for successful psychiatric care. The deepest secrets and sources of shame lie in our patient records. Presidential candidacies—for example, you might remember George McGovern—have been ruined by the invasion of the privacy of a psychiatric record. Up to now that could be guaranteed not to happen in Ontario.

Defrauding OHIP is wrong and we unequivocally support the government in eliminating it. Our patients have received audit letters from OHIP. They're asked to confirm that a service of a certain value has occurred on a certain date, and I believe they cooperate with OHIP. Some of them tell us they received their notice; I suspect others don't.

It's our view that this system should be sufficient to audit service delivery when carried out in conjunction with the tracking of billing profiles for individual doctors and medical practice audits. All of this occurs at the moment without any invasion of confidentiality or privacy.

This Bill 26 empowers the manager of OHIP, as you know, through ministry-appointed inspectors, to seize and examine medical files, determine the medical necessity of services and interview medical office staff without the knowledge of patients. People suffer as a result of violations into their psychiatric records. They've often suffered from intrusions and abuse of power. Some suffer from disorders of trust. The building and preserving of trust would be prevented by the threat of unknown others having access to their files. Psychiatric patients feel very, very strongly about this.

We must urgently consult with the minister to help him find a way to prevent further damage while eliminating the fraud. We urge him not to just listen to his staff but also the patients and psychiatrists who only want to optimize the process of treatment and recovery in a costeffective and responsible way that also eliminates fraud.

Affiliation with a facility: The bill requires new psychiatrists to be affiliated with a facility in order to obtain a billing number. This makes no sense to psychiatric practice. We work in the community in a network that involves primary care practitioners, agencies, families, schools, workplace and patient. Often we see families or couples or treat people in groups. We try terribly hard to keep patients out of hospital and away from institutions, and we're often successful in that.

The costs of hospital-based treatment, whether inpatient or outpatient, are more expensive than that which we can provide in our offices. We get paid the same whether we treat a patient as an outpatient in a hospital or in our office or in a clinic. Most psychiatric patient care is delivered in private offices. This is the successful model of health care delivery in Ontario. Why change it?

Someone seems to advise the government to have psychiatrists migrate to hospital settings. We see no rational basis for this. It's wrongheaded. It will mean a huge shortage of psychiatrists and waiting lists for appointments, because there are no way near enough hospitals to absorb all the psychiatrists. There are 1,400 of us. Figure out how many hospitals you need to attach everyone to.

The move in psychiatry is away from institutional care and towards helping patients remain in communities. We just don't understand why the government is promoting a reversal of this, and we ask to meet urgently with the minister in order to preserve and enhance the mental health care system, not send it backwards.

I'm originally from New Zealand. As many of you know, some of the reforms proposed in the Common Sense Revolution have been tested out in New Zealand with success in terms of economic indicators. The health reforms there, however, have not been handled well and it's been disastrous for psychiatric patients. I'm sad to remind you that the Globe and Mail reported several months back that New Zealand now has the highest suicide rate in the western world and that the homicide rate has skyrocketed to be third after the United States and Scotland.

We urgently ask the government to consult us to ensure that health care reforms that promote efficiency and economic reform don't result in a psychiatric disaster. We need to work together with you to learn from societies such as New Zealand so that we can preserve the Ontario tradition of quality mental health care and excellence in psychiatric care and training. It's all too easy for ill-informed bureaucrats to push agendas that might sound trendy or adversarial. We're very worried about the future of mental health care in Ontario and feel it can only benefit from proper process and scientific rigour in examining all the alternatives in a framework of partnership.

Manpower distribution: We're acutely aware of the manpower shortages in psychiatry in areas of Ontario. Our colleagues, beleaguered in these communities, have been working with us, with teaching hospitals and with other professional bodies to come up with solutions. Why is the government unilaterally coming up with measures in Bill 26 without us, the providers, being consulted? We want a partnership in solving the problems so that the most intelligent, workable solution to equitable distribution of psychiatric care to all Ontarians occurs. We need to meet urgently with the Minister of Health to share our ideas and projects and invite him to work with us.

Some of the ideas that we've had about this: There needs to be a good fit between the psychiatrist and the community. Just as trust is pivotal to individual care, the psychiatrist who is accepted by his community and the agencies in his network will build, usually by word of mouth, a confidence that allows psychiatric patients to come forward for treatment. Psychiatrists who resent being sent to communities in which they work will not be as effective in being accepted by the community.

For this reason, we view secondment and forced distribution of psychiatrists to be the least desirable approach to solving the manpower problem. We're disappointed that the government has jumped to this option while ignoring a cooperative, integrated and coordinated partnership to achieve the same goal.

The locum program has been helpful for GPs. This could be extended to psychiatrists to bring immediate relief to underserviced communities or to relieve beleaguered psychiatrists.

The provincial coordinating committee, PCCAR, a group of academics and members of government, has

been working on a comprehensive manpower plan. We support this initiative, which will provide for a critical mass of integrated specialists/subspecialists for each region in Ontario.

Academic centres are moving towards developing rural psychiatrists and help them move to rural communities.

Alternate payment plans may be helpful in attracting psychiatrists to underserviced areas. There should be flexibility about where that money comes from to ensure that we have psychiatrists who want to go to a community, who can be on a direct contract, for example, to that community.

We are currently proposing to the OMA changes in the fee schedule to encourage psychiatrists to staff psychiatric inpatient units and to provide consultations to the community.

Psychiatric treatment is time-limited and often long-term as conditions are chronic. A psychiatrist can only treat a limited number of patients properly in any day. Psychiatric utilization is a function of the incidence of mental illness and the demands that competent treatment places on the psychiatrist's time. Moving psychiatrists from one community to another or from the community to a hospital will not address the treatment needs for Ontario's psychiatric patients. Each psychiatrist will earn the same amount of money whether he works in an office in London or a hospital in Sudbury, for there are only so many hours in a day. Manpower distribution is best addressed by partnership and consultation, not manipulation or Big Brotherism.

We're prepared to work with the government to solve the problem. Under Bill 26, it would appear that the government is not prepared to work with us. This places the psychiatric care of Ontarians in jeopardy.

Already we have a mental health reform process, started under the previous government and nurtured by the bureaucracy within the MOH, which is attempting to design a health care system without consulting psychiatrists at large. This is a huge waste of time and money and only promotes bias and division.

We offer the government and the Minister of Health sincere consultation and partnership and we hope that reason and common sense will prevail and we can participate with you in planning for mental health care in Ontario.

The Chair: Thank you. We have time for one quick question from each party, beginning with the Liberals.

Mr Bartolucci: Let me get back to the privacy of information. I think the bond that you have between patient and doctor is that of trust. Do you feel that the foundation of this trust is destroyed with this legislation?

Dr Connell: I do. I'll give you an example. I have a patient whose insurance company wanted to get all of the files. I filled out a form explaining what the conditions were and what I thought the prognosis was, and they wanted a copy of her entire file. She refused to go ahead and get life insurance on that basis, because she did not want any other party to examine her psychiatric file.

They feel very strongly about this. They don't want any invasion. It's hard to appreciate if you haven't known someone who's been in psychiatric care or if you've been in it yourself, but there's a tremendous amount of time it takes to build the trust that allows this material to come out in session after session, and it's all in the file. We don't see any reason that financial or fiscal concerns to eliminate fraud should have any access to that information. They're just not linked in our minds.

1130

Ms Lankin: Dr Connell, I wanted to ask you about the elements of your presentation dealing with young doctors, and I guess the billing number restrictions and those sorts of things that you raised. We heard from a group of psychiatric residents last night who raised concerns about underserviced specialties in a sense here within the city itself, where there's perhaps a larger population of chronically mentally ill and I guess an underserved need for various types of communities there.

I have a series of statements by a number of doctors, and these numbers are growing, and I hope over the course of the next couple of days to get them all on the record, one of them from Dr Walter Rosser, chair of family practice, University of Toronto. He says: "All of our residents are being inundated with requests to go south of the border. Three weeks ago, when Bill 26 was introduced, residents in Toronto surveyed all of the members that will be graduating from our program in June; 80% of them said that if these changes come through, they'll leave the province and go south of the border."

Are you worried about what will happen with the psychiatric residents and the supply of psychiatrists, not just in terms of those who unhappily go to other areas of the province but the service needs here in a large metropolitan area as well?

Dr Connell: I don't know if you've had any experience of trying to get a psychiatrist in Toronto at the moment, but it's very difficult.

Ms Lankin: I would just call you. You live in my riding.

Dr Connell: This can't be allowed to happen. We can't allow this to happen. We have to address and consult and develop a plan not just to maintain the service delivery that we've got at the moment, but to rationalize the delivery for the whole province. We can't allow it to decline any further in Toronto, let alone the rest of Ontario. We have colleagues in Sudbury. They're very short of psychiatrists up there, for example. There's one guy left and another three have gone. We try to help these guys out, but we've also got huge demands on our time here in Toronto. It just can't be allowed to happen.

Mr Klees: Dr Connell, how many psychiatrists currently are practising in the province of Ontario?

Dr Connell: Of the 1,400, I'm not sure how many are actively in practice.

Mr Klees: But we have 1,400 psychiatrists in the province of Ontario. I'm very interested in hearing from you on an issue that I'm personally very close to. I represent York-Mackenzie, which is Aurora, Newmarket, King, the northern part of York region. This past year, within the last three months, we have had to make special arrangements to bring a psychiatrist from South America because we could not find a psychiatrist to come to York region from anywhere in the province. How do we deal with this?

Dr Connell: I'll give you my experience. I got my immigration on the basis of serving an underserviced community, which was Brampton. I worked at Peel Memorial Hospital for three years, served that community as a psychiatrist, and that helped them out and it helped me out.

Mr Klees: Are you suggesting that for all of our underserviced areas in the province of Ontario we have to recruit from outside the country?

Dr Connell: No, but I'm giving you one example from my own personal experience of how—

Mr Klees: But that was your experience; it's now

The Chair: Thank you, doctors. We appreciate your involvement in our process and we appreciate your being here.

Ms Lankin: On a point of order: A member should allow a presenter to answer the question, if you're asking a question.

Mr Clement: That's news to your side. *Interjections*.

The Chair: We have one issue left outstanding from earlier that we said we would deal with, and that was the question of whether or not we would allow some time for the privacy commissioner to talk to the members of the committee. Can we have this discussion, please, folks? We have several openings available to us in the schedule: one this afternoon at 3 o'clock, three this evening and some tomorrow. I guess the first question is, do we have general approval or unanimous consent to be addressed again by the privacy commissioner?

Mr Bartolucci: Yes. Ms Lankin: Yes.

The Chair: Okay. We have two yeses.

Mrs Johns: Did he not say he didn't have people available to address us today?

The Chair: I don't know about today, but the issue is, do we want him to address us? That's the first issue.

Mrs Johns: I see. Okay.

Mr Clement: If it's available and if no other person wishes to take that spot, based on the agreement of the three persons on the subcommittee—

The Chair: So we have unanimous consent that we would like the privacy commissioner. How much time do we need? Does anybody have any thoughts about how much time we need?

Mr Bartolucci: Why don't we slot it for tomorrow and why don't we slot it for an hour, and if we don't use the whole time, then we can do lots of the housekeeping stuff in the morning and get it out of the way. I believe tomorrow would be very appropriate because we will be in a different room and there will be more people who will have the opportunity to hear his comments.

Mr Clement: We don't have any time in the morning, Rick, tomorrow.

Mr Bartolucci: We don't have time?

The Chair: The only time we have tomorrow is that we have half an hour at 1:30 and then we have the afternoon from 2:30 on. We have to stop at 6, but we have no appointments for tomorrow afternoon. By the way, there is no waiting list to appear before this committee. There are a few names out, that we have invited

people and we haven't answers back yet, but there's no outstanding waiting list.

Mr Bartolucci: Let's firm this one up first then, all right, Mr Chair? How about tomorrow afternoon then and we'll slot an hour?

Mrs Johns: I think he said his people weren't here this week.

The Chair: We'll deal with that with him.

Mr Bartolucci: Excuse me. I believe he said he would be happy to meet with us again, but that he was short-staffed.

Ms Lankin: I understand what you're attempting to accomplish, Mr Bartolucci, but I would prefer, given that I made the request in the first place, to have the privacy commissioner come forward when he has a full team of staff available with him so that we can actually have an in-depth briefing on the proposed amendments. I suspect that means it will be sometime in January when we would be able to do that with him.

If you could contact him and if he is available, with staff, to come tomorrow, that would be fine. I would appreciate tomorrow rather than today, because I'd like to have some time to read the amendments so that I'm actually a step ahead and can have an informed discussion with them and have some questions ready. That would be fine, but I suspect it would be more appropriate for his schedule and staff to try and do it some time in January. I would urge us not to do it without his staff backing that he suggested he would need to have a full briefing.

Mr Clement: I tend to agree with Ms Lankin. There's no point in wasting his time and our time if he does not have the staff necessary to put his position accurately on record. If we have questions, and I did not mean to embarrass the privacy commissioner with my line of questioning, but it would be helpful obviously if we have some time to go over his amendments and he has some time to go over our concerns. That process in January makes a lot more sense to me.

The Chair: Okay. We've got a bit of a problem with January of course, in that we're not going to be in town until clause-by-clause. That presents a bit of a problem in January. There may be a solution around that.

Mr Clement: Are we oversubscribed for Hamilton, for instance? That's pretty close to Toronto.

Ms Lankin: That's the last day so that's not that helpful.

Mr Clement: That's the last day. It's right before clause-by-clause, so it's almost appropriate.

Ms Lankin: I don't know whether this is possible, and members may well have made plans and I would understand it if it couldn't be possible: I was thinking even of a voluntary briefing session being established for the Friday before we start to go out of town. I think that's the 5th or something like that. The only thing I would request is that I would like it to be on the Hansard record.

The Chair: I throw this out as a possibility.

Mrs Johns: We come in very late at night on a Friday. We'll all obviously be here Saturday morning. How about the Saturday morning? We come in very late. We leave Kingston at 9:30 at night and come in, and then we go out at 2:30 on the Sunday, so we'll all be in town,

probably, because we from out of town won't have any

opportunity to go home that weekend.

The Chair: Could I make a suggestion? When we start clause-by-clause, the time allotted is 10 am to 6 pm. Could we take the first hour, take 9 o'clock on the first Monday of clause-by-clause, from 9 to 10, for the privacy commissioner? Then it's fresh in our minds. It's after we've had all our consultation and it's before we do clause-by-clause.

Clerk of the Committee (Ms Tonia Grannum): Could I just say something on the record? The order of the House says on the week of January 22, 10 am to 6 pm to complete clause-by-clause. We're not authorized to sit January 5 either. Was there a suggestion on another date that I heard?

Mrs Johns: I just wanted the Saturday, so we wouldn't be authorized for that either.

Clerk of the Committee: Saturday we're not authorized to sit either.

Mr Clement: I think we should see what his availability is, and our availability. I don't want to crowd out anyone from Hamilton, but maybe that's a possibility.

Mr Bartolucci: It may resolve itself if he can get his staff tomorrow.

The Chair: We've got unanimous consent for the privacy commissioner for an hour with his staff at the best available time for all of us. Can you leave it up to the Chair and the clerk to try to schedule a time and report back?

Mr Clement: My only caveat is if we are taking it during regularly scheduled time, I would like to shave it back to half an hour if there's demand. I don't want to knock anybody off because we've agreed to the privacy commissioner.

The Chair: I don't even think we'd knock half an hour off if in fact there was a member of the public who wanted to present.

Interjections.

The Chair: Okay. We're recessed until 1 o'clock. *The committee recessed from 1140 to 1306.*

ONTARIO PSYCHIATRIC ASSOCIATION

The Chair: I think we will begin as close to on time as possible, and we understand the Liberal member is on her way.

From the Ontario Psychiatric Association, Dr Edward Rzadki and Dr Alan Eppel. Welcome, gentlemen. We appreciate your being here. You have a half an hour to use as you see fit. Any time you allow for questions will begin with Ms Lankin from the New Democrats. The floor is yours.

Dr Edward Rzadki: Thank you for giving us the opportunity to appear before your committee. I'm president of the Ontario Psychiatric Association and I'm Edward Rzadki. Next to me is Dr Alan Eppel and he's chairman of our public affairs working committee.

Bill 26 is an unwieldy, multifaceted kind of bill, and we've had a short time to really deal with all the issues. However, first let me be complimentary. The Metropolitan Toronto District Health Council has recently gone through a couple of years of planning where they in-

volved many stakeholders. There was a lot of consultation. There was much consensus-building, a lot of data, a lot of evidence, and they came up with some recommendations.

I can understand that the present government, in order to implement the recommendations, will need to make some changes in the legislation to allow those things to take place. The concern I have of course is that the powers may be too lengthy, and perhaps these powers, powers of the implementation commission, should be time-limited until the implementation is completed.

I'm going to turn it over now to Dr Alan Eppel to discuss more about the process issues.

Dr Alan Eppel: Firstly, I think that the issues the bill attempts to address are real. There are significant problems that we are faced with in the health care system and certainly within the psychiatric system—problems of maldistribution, underserviced areas, shortage of specialists in various capacities and the difficulties with access for many of the patients and those in the community who need care. There are real problems and there have been difficulties attempting to resolve those problems.

There are times when we're all called upon to maybe give something up or make sacrifices for our province or our country, and this is one of those times that all of us in Ontario now face. However, the powers in Bill 26, as you know, are very sweeping and potentially arbitrary. So one of the main issues is the need to build in some fair process. The power of the bill allows the minister to make hospital closures, designate areas where physicians may practice, as you're all familiar with; I won't repeat them all.

All those powers are very dramatic, very sweeping, and there are no checks and balances in terms of a fair process to use objective criteria—medical evidence, health care evidence—to make those decisions, and there are no processes of appeal. So I think the major, general, global factor about this bill is that the powers in it lack fair process and due process of appeal.

Dr Rzadki: I'd just like to tell you a little bit more about the Ontario Psychiatric Association. We are a voluntary group. We represent organized psychiatry in Ontario. Our aims are to develop professional education and excellence in the clinical practice of psychiatry. We also advocate for the mentally ill and we advocate for an improved mental health system for Ontario. These are part of our objectives in our constitution.

Back to some of the specific issues about the bill: The issue of confidentiality is key to building trust with our patients. It's difficult enough to build trust these days, and anything which interferes with that will seriously impair the therapeutic alliance that's very necessary for psychiatrists and all physicians to produce the kind of results that we want. We're very concerned about that part of the bill.

The government also wishes to introduce tremendous coercive, punitive powers in terms of obtaining information from doctors' offices. My understanding is that that's already available through the Medical Review Committee. So I'm puzzled why more powers are required.

The \$2 user fee for prescriptions is a very serious concern for those of us psychiatrists who practice in areas

that deal primarily with the seriously mentally ill. Many of our patients who are seriously mentally ill are on welfare, and if they need to add money from their pockets to buy medication, that's going to be extremely difficult. Many of them are functioning in the community at limited levels of function and only because we've been able to convince them that medication is necessary. So anything that would interfere with their ability to continue to maintain the treatment that keeps them well and keeps them out of hospital is a very serious concern to us. We believe that if it interferes with patients' ability to continue treatment, the costs will be even greater because they'll have to be admitted, perhaps, to hospital where we know the costs are higher.

The Ontario Psychiatric Association doesn't negotiate fees, but we're very concerned about those areas that Dr Eppel mentioned. There are underserviced areas in Ontario. It's not just geographic. In the north certainly there are problems. However, there are programs that have been introduced, with the cooperation of psychiatrists and the government and the mental health branch of the government, as in Thunder Bay and Kenora, that allow cooperation, consultation, consensus-building, commitment to provide a program—and those things work. One doesn't have to be coercive in order to get programs to work.

First of all, one needs to decide what kind of program you want. That requires a lot of consultation. Once you decide on the goals and objectives of the program, you need to provide the resources to make it work. I think in Ontario we can do that, and there are examples where that's already been done.

You've heard this before, but psychiatrists are different. We're physicians, but we're a little bit different. We do a lot of indirect service, consultation with non-patients, allied to health workers who provide more direct care to our patients. We call that indirect service.

In the past, indirect service was funded separately. Recently, since the social contract, 25% reductions in these indirect sessional fees have resulted in more difficulty obtaining psychiatrists to work in those areas where you really require a lot of indirect care. There just aren't enough psychiatrists to do one-to-one care. Even in Toronto it's difficult to get a psychiatrist, where we think we have a lot of psychiatrists. But has anybody here tried to get one? It's not that easy. That's one area we're concerned about.

I've already mentioned the Metropolitan Toronto District Health Council report, and I just want to emphasize, even though not everyone's happy with the results of the recommendations, that process did attempt to involve many players and attempted to get the appropriate information. I think that this government, in its effort to improve health care, to improve the system of health care, should be using those kind of methods to improve health care, the methods of continuous quality improvement, where you need the appropriate people involved, where you look at processes and not just bad apples, not just bad people. If you improve processes, I'm convinced that you can improve programs.

In summary, the Ontario Psychiatric Association supports mental health reform with its emphasis on the coordinative, comprehensive system. We also believe we

need better information systems to measure outcomes and effective treatment methods. We will be submitting a written brief before January 19, which will be a bit more fleshy than our verbal presentation. I thank you, Mr Chairman, for your attention.

The Chair: Thank you, and we look forward to getting your written brief. We've got about six minutes or so left per party, beginning with Ms Lankin.

Ms Lankin: Thank you very much. I have questions in two or three areas that I'd like to raise with you. If I could start, first of all, on the issue of the powers given to the restructuring commission and the minister with respect to closure and merger of hospitals etc, we've heard a number of concerns about these. Other people have suggested this should be time-limited—not just the commission, by the way; the extraordinary powers in section 6 given to the minister to do just about anything he wants as well. Those people were saying if it is necessary to accomplish the restructuring, make it time-limited; let's not leave this in there forever. Would you agree with that approach?

Dr Rzadki: We would.

Ms Lankin: The one thing I wanted to ask you about is, you said when you started off, in wanting to be complimentary, that you believe, for example, an important piece of work like the district health council restructuring report for Metro Toronto, if the minister needs powers to implement that, they should be there. I'm wondering whether you have had any advice or if you've formed an opinion based on the legislation that he actually requires these new powers to do it. I know that's the reason the government's given, but I have some reason to question that, based on my own experience in the ministry and some legal work that's been done. Have you just accepted that or do you have reason to believe that?

Dr Rzadki: I'm not familiar or very knowledgeable about what powers the minister has at the present time, but I'm told that the minister cannot at the present time close hospitals.

Ms Lankin: I think that stems probably from the Doctors' Hospital decision. At that point in time there was a decision that a hospital couldn't be closed solely for fiscal reasons without looking at issues of patient care etc. I would argue that's a far cry from what the DHC's gone through in terms of the community consultation in the report. But that's an issue for us to work through.

You talked about coercive power and restricting billing numbers in dealing with the problem of underserviced areas. We know that there have been a couple of processes put in place. The Scott report was commissioned by the previous government and came out just before the election, and the previous government was committed to it and this government says it is. PCCCAR, the Provincial Coordinating Committee on Community and Academic Health Science Centre Relations—have you been involved in that?

Dr Rzadki: As a matter of fact, the Ontario Psychiatric Association is always involved, when invited, in any kind of mental health planning, and we currently are involved in a subcommittee on psychiatric human resources, a subcommittee of PCCCAR.

Ms Lankin: I guess my problem is, we haven't got Scott implemented yet. It just came out a few months ago and there was an election and the government's now said they're going to implement it. PCCCAR is coming up with recommendations and those have to be put in place and we have to see how that affects the service, and yet they're saying if we don't have these problems fixed out there by June, when the next group of graduates is just going to be graduating anyway and won't know where they end up practising, it seems to me to be precipitate. What is your expected time line for PCCCAR and how that could influence the distribution into underserviced areas?

Dr Rzadki: The committee the OPA sits on is just one subcommittee of probably many that PCCCAR has dealing with the supply of physicians across the province. Our time line is to have a recommendation some time by February or March. My understanding is that if the recommendations are accepted, they may be enacted some time in the spring.

I like the process. It's a consultative process. It involves the stakeholders that need to be involved in looking at human resource issues, especially when it comes to underserviced areas. I'm supportive of that process. It worries me that without looking at the objective data, looking at evidence, looking at what the opinions of experts and consumers are, decisions may be made which may not be appropriate.

Ms Lankin: Just one last comment that I'll leave with you: The minister has been overheard to say that if you can sort through these issues and solve these things, then he may not use the powers in the legislation.

I have a wonderful quote from Hansard of him attacking the former Minister of Health, Ruth Grier, saying: "Oh right, you're going to put a gun to doctors' heads. You're going to tell them that you're not going to use this power in the legislation; it's only there if they don't negotiate. You don't know what you're going to come up with in negotiations, but you know what draconian powers you need to use behind closed cabinet doors." That's almost verbatim, I've read it so often. So I don't buy that as an answer from him on this. I too trust in the PCCCAR process and I hope you'll have an opportunity to implement those recommendations.

Dr Rzadki: Here's another one for you: If you want to catch barracudas, you don't need a minnow net. **1320**

Mr Klees: Thank you for your presentation. In the past, the ministry has requested hospitals to protect mental health services in the province, and generally our sense is that this hasn't always happened. Bill 26 provides the ministry with some additional clout, if you will, to ensure that essential services are indeed protected. Do you agree with that measure and could you comment on that?

Dr Rzadki: Absolutely I agree with that measure. I'm happy to say that the Metropolitan district health council in its final report to the minister has, in bold face, suggested that acute-care general hospitals with psychiatric beds should have some protection, given the tremendous restructuring that will take place and changes in the fiscal realities. I applaud that and the OPA certainly

supports anything that will maintain beds as they're needed until the community services are in place which might obviate the need for beds.

Mr Klees: You're aware that the minister has clearly stated that with regard to the power relating to control of billing numbers, he does not intend to use that, that he would prefer to see some initiative coming forward from the medical profession to solve that problem, but that if it doesn't get solved, he needs to know that there's something there he can rely on.

With regard to psychiatric services—my home riding is York-Mackenzie, the northern part of York region. At York County Hospital specifically, we had a situation this past year, in June, where all the psychiatric staff walked out of the hospital, resigned. We have been scrambling to get some service in place. We've had to recruit a psychiatrist from South America to provide services in that hospital. This is an ongoing problem. Do you have anything in mind, beyond the minister having to resort to billing number allocation, to solve that problem?

Dr Rzadki: You mentioned a very specific area and location. It's Newmarket. The problems the psychiatrists there were having were very specific. They were not provided with sufficient non-medical support. You might be aware that in Newmarket there are many homes for special care or homes that deal with patients who have been discharged from psychiatric hospitals. This hospital was getting a lot of patients suddenly living in their community without appropriate resources to deal with them. I'm familiar with that situation and I understand why they resigned.

But the important thing is that if the government wants to support those areas where there are problems, we need to look at incentives that will keep psychiatrists working in those situations. Incentives are not just financial; the incentives are all those tools we need as psychiatrists to help deal with our patients. That's not just money; it's having the social workers and other people who can help us deal with that, especially in the community.

Mr Curling: Your presentation is quite thoughtprovoking. You have echoed many of the things that a majority of the presenters have come forward here with.

To follow up on the question the government has just put to you, it reminds me of the reforms in the 1970s, when some of the psychiatric patients were in Parkdale.

Dr Rzadki: They're still there.

Mr Curling: Exactly. That's my point.

While reform is necessary in this process and we welcome any reform that improves things, do you feel this is a bit too rushed, not thought through properly? The repercussions sometimes cost us lots more in the long run. It's like the old saying, "Pay me now or pay me later." We're paying for that now. What are your thoughts on that?

Dr Eppel: One small example of that might be the \$2 fee on prescriptions, which could lead to much higher costs in terms of rehospitalization and other interventions in a population that may not be able to cope with what to us may seem a small cost but, over time and with other cuts in social service funding and so forth, is quite significant. That may be an example of what you're saying, that it is difficult to foresee all the implications in

such a short period of time without studying the bill in more detail and getting some consultation from stake-

holders, both providers and consumers.

Dr Rzadki: On the other hand, we do know that mental health reform is under way—it has been for many years—and there have been many reports with wonderful recommendations. The problem is that they continue sometimes unimplemented. We do need to look at, if there is a consensus to move towards reform, what resources, what incentives do we need to make those programs work? If you need any legislation to do that, please do it, but it should be in keeping with certain principles of respect and dignity for the people involved, including the ones who provide health care as well as the ones who receive it.

Mr Curling: I want to touch on the confidentiality of patients' files. The privacy commissioner earlier on, before the hearings even started, released a precaution about what could happen if these files and information are in the wrong hands. With the sweeping powers we see here, what kind of impact do you feel it would have on your patients or on your profession, as professionals, having this information in the hands of—I don't want to belittle politicians, but people other than professionals who can deal with this situation?

Dr Rzadki: I'm very concerned about those sweeping powers. Confidentiality, as I said earlier, is a very important part of building a relationship with patients, and it's not always easy, with some of the patients we're dealing with. Often, we see patients who don't particularly want to see us, so anything that interferes with building the trust we need will hamper appropriate management. I'm very concerned about that.

Mr Bartolucci: Maybe a follow-up to Mr Klees's question with regard to the minister's power to direct or dictate services, the volumes of services etc: Do you not see as a possible consequence the lessening of psychiatric services available to the public because of this legislation, if he so deems it?

Dr Rzadki: I'm very heartened to have heard the minister say that he is concerned about the lack of mental health services, so I hope he lives up to those words. We're very encouraged by that. But the powers you need to live up to those words—well, that's the problem, I guess.

Mr Bartolucci: Here we're not talking about the minister's words; we're talking about the powers within those words. Today he may be saying yes, but tomorrow he may change his mind. The legislation is flawed, because it allows him to redirect those energies so that in fact your services could suffer. Is that not true?

Dr Rzadki: I don't believe the intention of the government is to make mental health services suffer. I hope not. That's why the OPA would support time-limited powers to enact or implement the kinds of recommendations that have come after consensus-building, consultation—the commitment to make the program work.

Mr Bartolucci: I guess you don't agree, then, with your fellow professionals who have appeared before us and said they're very concerned that it seriously limits your clinical integrity as well as your powers to deliver your services.

Dr Rzadki: I'd like to be very clear. Once there are programs that make sense to everyone involved and that we think would improve health care, then, with the legislation we have, from my limited understanding of it, I understand that we don't have enough legislative power to make those programs work. If we don't, then we should have.

But where there is not proper consultation, where there is not proper involvement of the stakeholders, where there is not consensus-building, where there is not commitment to some agreed- upon goals for a program, I am very much concerned about powers which are arbitrary, seem to be very coercive and punitive.

The Chair: Thank you very much, Mr Bartolucci, and thank you, doctors. We appreciate your coming here this afternoon and being involved in our process.

1330

JOSEPH FOX

The Chair: Our next presenter is Joseph Fox. Good afternoon, and welcome. You have a half-hour to use as you see fit. Any time you leave for questions will begin with the government. The floor is yours, sir.

Mr Joseph Fox: I understand that I'm given 15

minutes to a half-hour, and then I get the hook.

The Chair: Well, it's kind of like that.

Mr Fox: First of all, I think it's wise that I give you a personal background, which will confirm what I'm going to say. I've been a practising pharmacist for 42 years, enjoying the ownership of three drugstores. I retired and was accepted at the school of medicine to audit courses, which I've done for years. I've lectured to the public and lectured to the school of nursing. I also have done a lot of research at the science and medicine library on campus and am involved in research throughout the States as well, Johns Hopkins, Duke University. I think I have a background which confirms what I'm going to say.

To begin with, this may be a surprise, but this will be praise of what Mike Harris's government is doing relative to health care, and that's the area I'm talking about. As you probably know, there's been prolonged bleeding, haemorrhaging of health care costs over the years. I'm going back to when I served on the standing committee and worked with Peterson's Murray Elston. We worked on defeating the extra billing, which served a purpose. But since then, and I am not referring to you as a former Premier—Minister of Health, rather—

Ms Lankin: That's quite a promotion I got there for a moment.

Mr Fox: Nothing has happened since then to stop the prolonged bleeding, from the days of Murray Elston in Peterson's cabinet. I've watched this. I've been on standing committees. We were successful, as I said, in saving costs to the public with the extra billing. It was a long-fought battle, but it worked. But I've seen a lack of preventing an ongoing bleeding, increasing the deficit year by year. Even this year is going to show a 13% increase in the deficit.

What I'm saying is that I strongly praise the present Minister of Health for doing what he's doing in cutting back on unnecessary utilization of medical services. I'm talking about health disciplines, pharmacists, physiotherapists and doctors. I'm not only picking on doctors.

I have suggestions, which I've done before, for means and methods to put an end to this. Down in Kingston you have a great group of people to whom, as you know, the billings by health disciplines are sent. They have been highlighting the billing by doctors and health disciplines who are repeatedly seeing patients long before it's necessary or even—as you know, hypertension doesn't require a patient to be seen and his blood pressure checked every two weeks. Usually it's two to three months when medication is controlling the problem.

There are other abuses—I don't mind using the word "abuse"—where the staff there have flagged the excessive utilization of services. Nothing was done about it.

May I call you Frances Lankin? You probably were aware of it as well. This is at 49 Place Darnes in Kingston. They're a great group. I've spent time with them. They're a great group of people and they get frustrated. There's no pickup of what's happening to these people who should not be allowed to keep on billing and billing for no reason at all. As a matter of fact, one point was made that they're going to ensure there's no excessive use of ordering tests by doctors which are unnecessary and more often repeated than necessary. That's another area of the problem.

I understand that the present minister, that's one of the factors they're going to apply, which is very good, which has been ignored. Again, I'm not criticizing because I know you've done a good job in your time. But it's a little irritating to someone who is a taxpayer and someone who's done so much research. I've seen areas in small towns, pharmacies, and in large cities, where they too, the pharmacists, are not allowed to—there was a time years ago, long before your grandfather was born, when a pharmacist could not even discuss or talk to the patient about what happened in the doctor's office. He couldn't even put the name of the drug, which of course is done today, on the label. There's been quite a change.

Let me go on to the methods that I think should be applied to help this. I've also spoken to the Provincial Auditor, Douglas Archer, who retired three years ago. He also agreed that there has been a terrible haemorrhaging in this area of the costs in health care. We had quite a nice meeting.

What I want to say about the methods that come into being is that we have a problem which has been cut back. We have walk-in clinics, and quite a few here, which are so prolific and unnecessary. We're having problems which come up all the time in my research and with doctors who are also working together.

A patient, Mrs Smith, goes to see her doctor, can't see her doctor because he's not available, goes to a walk-in clinic which has no record of her past, and is told what her problem is and what should be done. Then she decides, "I better get back to my doctor when he's back in town on Monday," and he of course has a different diagnosis and prognosis. Now she's got two different ones. It's interesting too what is happening in not all of them but enough of them, in the walk-in clinics, where they'll encourage the patient, "Come back to me," instead

of saying: "Go back to see your doctor. This is only temporary."

Now she's got two opinions. She says: "I have to have three. I must go to the third because these are conflicting." She goes to the third doctor. This is not uncommon. The government is paying not for just one visit; they're paying for three visits. It's called triple doctoring, which was brought up in the days with the Peterson government, Murray Elston. So this can be checked into. Triple doctoring has got to be stopped.

I made a point here. Here are my other points.

In the excessive utilization of medical health services, we mentioned about doctors ordering tests unnecessarily. This takes place, as you probably recognize, mostly in clinics where the doctors own the lab. There was a time where they couldn't own a pharmacy. I think that's also been softened. But that must be stopped.

I usually have a written report or brief, but I didn't have the time. I just was phoned yesterday about coming in at 1:30 today.

Now, what you've got is a very strong board called the Health Services Appeal Board. Once they find out that the doctor or the health discipline has been refused his billing, he can appeal it. Are you all aware of the Health Services Appeal Board? Good. He can come and protest the cancellation of his billing. Now, this is a good group; they should be strengthened too. The doctors find: "We can't do this. We can't do excessive utilization. We can't get away with it." That's another method which should be emphasized and should be used by the Ministry of Health.

Pharmacies now. I've spoken to the college yesterday. I had time spent with them to see what they're doing, where a pharmacy can, as you all probably have learned, give you advice on things without running to a doctor. They have now a program in being called Quality Assurance, where the pharmacist will be given the time to show what can be had, over-the-counter medication, to prevent this person rushing to Emergency or rushing in to her doctor, which can be handled very well, and that's quite a thing the Ontario College of Pharmacists is doing because they know the need to stop this flow into doctors' offices unnecessarily.

This has come into effect in the training of the pharmacists and the time spent. The inspectors will be checking not only about how many books you must have in your library and other aspects; they'll be trained to have the pharmacist spend time taking care of you and advising what can be done at the pharmacy. This is going to be quite an accent on a future in pharmacy. So there is another saving.

I mentioned the walk-in clinics and I mentioned the—if I could just take a moment. Oh, yes, Emergency. As you all probably know—and I've spent time at Sunnybrook and Ottawa Civic; I've been down to Hopkins. I've spent time talking to Duke University. These are well-recognized areas. And that is the problem that comes to being of doctors not being up-to-date in what they're doing, which is a separate subject. That's something I'm involved in over at the university. The triage—when you go into Emerg, you have a triage which now represents

a nurse who's qualified in whether it warrants going further to see the doctor in Emerg. What they're doing now is, suggested by myself and a few of the retired doctors, the triage nurse should have a backup of a volunteer doctor, usually retired, and a pharmacist, to back up what the triage nurse is saying so there's no money spent, no time spent, where Emergency, particularly in Sunnybrook, the Toronto Hospital, has to spend more time seeing people who are not necessary to be seen.

So the overall picture is that money can be saved. Money has to be saved, and the deficit can be reduced if only these different aspects will be exercised. Now, if there are any questions, I'm willing.

The Chair: Thank you very much, sir. We've got about five minutes per party for questions, beginning with the government.

Mr Clement: Thank you very much for your presentation and for your thoughtful elaboration of the tangled history of health care reform in Ontario, something of which I don't think any of us who are in political life should be proud. It really has been a litany of lost opportunities, and it's not just a lost opportunity; it is a lost opportunity that has cost the taxpayers of Ontario money. The result of that is that we have, if we are further into debt and deficit as a result of some of this, then we have less money now to apply into the system because we're paying interest on the debt. So it really is a vicious circle that we are trying very hard to get out of.

I was very cognizant of your examination of the history of things, and then you went into a bit on some of what you saw as some abuses in the system, some overmedication, excessive use of procedures. That's on the physician's side, but there's also the patient's side, triple doctoring.

Mr Fox: True.

Mr Clement: I'm not trying to blame this all on the physician at all. There are in fact persons who are abusing the system from the patient end of things as well, which I suppose is our justification, if one is needed, to allow for greater investigatory powers in the act. I just want you to elaborate a bit on what you see as the use and abuse of the system and whether you think that justifies governmental action.

Mr Fox: We use the word "exploitation"—we use this in our own meetings—by the public. It is true, because something free, instead of going to a show they'll go to a doctor's office. They're liable to walk down the street. As I was saying, triple doctoring is very bad.

Once Dr A sees a patient and recognizes the problem, be it dermatological, whatever, it is sufficient for the patient to leave. But what is happening is that the patient now decides, "This is great. I can go to whoever I want," as I told you: triple doctoring. That's exploitation.

What is happening now, once Dr A punches in and bills in, by his computer preferably—pharmacists all have computers, and that will happen. He'll punch in, "Dr So-and-so saw Mrs B on such and such a day with a problem, dermatological." She decides she wants to go to another doctor. She's not too sure. She doesn't like relating to the doctor: very short in his manner. And she goes, and Dr So-and-so is putting through his card, his

billing, and suddenly up comes the flag: "Mrs B has been seen by Dr A. We're not paying. You'll just have to ask the patient." So the circumstance is that she'll have to pay. Do you know that 71% it happens that the patient goes out, doesn't want to pay?

The same thing applies where you get medication with the delisting of a lot of the ODB. The pharmacist says, "I'm sorry, this is not on the free list." This is the case 62%. They say: "That's fine, then. We will leave." So there is a case where good things are happening.

Mr Clement: If I am permitted, Mr Chair, let's just talk about some of the overmedication that occurs and that does affect seniors, as we know, and we've heard examples in this committee. Somebody has suggested that the cost-sharing \$2 copayment might in fact inhibit overmedication both from the patient end, the patients who seem to want to have overmedication although they don't realize the side-effects, but on the other hand it might also inhibit some physicians who are just in the habit of writing prescriptions for everything under the sun. From your knowledge and your background, is that a possibility at least?

Mr Fox: Could you just break it down to one point?

You're saying—what are you asking me?

Mr Clement: We're trying to figure out whether the copayment will inhibit even physicians a bit so that they'll think twice about overmedicating, overprescribing.

Mr Fox: Oh, I see. I'm a strong believer in user fees. It's been very successful in Quebec and out in Saskatchewan. I'm very strong in it. It shouldn't apply to those people who have an income under \$16,000 or whatever, but the rest of the public can.

Mr Bartolucci: Thanks so much for what I think are words of wisdom, and I respect that. I'd like you to just carry on and clarify for me a little bit how you feel this whole process should have taken place in the first place. Do you believe, for example—and let's carry on with the example of Mr Clement, the example you used with regard to abuse or fraud with regard to doctors. Do you feel that the OMA, which is concerned about that, should be excluded from the process of remediation?

Mr Fox: I'm sorry, the last few words were which? Mr Bartolucci: Do you think that the doctors, the Ontario Medical Association, should be excluded from the process of remediation to remove the problem or to alleviate the problem of fraud or abuse?

Mr Fox: First of all, I'm not attacking the medical

profession.

Mr Bartolucci: I understand that.

Mr Fox: In all professions there is a problem. It's just that we've got to hold up and stop this haemorrhaging. For instance, the Law Society of Upper Canada is doing a terrific job holding back the problems or correcting the problems. This involves money to the government as well. The Ontario College of Pharmacists has strict rules and they also—the disciplinary committee and the infringement committee are very strong.

I have a little thought. I have a lot of respect for what is happening up on College Street where the College of Physicians and Surgeons is. I don't feel that they're as strong. The Law Society of Upper Canada really hits the

lawyers. Lawyers know they can't take their chances failing in trust of their clients. Pharmacists know that they will much more rapidly lose their licence or their time of practising if they fail. There's a little bit of weakness. I mentioned this before. I've been involved with retired doctors who have also said now that they're free, there is quite a change. As you probably read in the papers, such-and-such a doctor has been cleared, and I think there should be a little more strength applied. After all, the umbrella of the Ministry of Health—they're responsible; the medical profession, pharmacists, all health systems are responsible. I think there should be a little more monitoring by the Ministry of Health.

Mr Bartolucci: Because of your experience and because of your age, could you please tell me, though, do you ever strengthen something or someone by removing them from the opportunities to be a part of the solution?

Mr Fox: When I used to lecture, one of my questions to the students or whatever was, "I'm failing to get the solid point." I'm sorry.

Mr Bartolucci: Well, what's happening here is that with this legislation, the government effectively destroys the OMA.

Mr Fox: Oh, I see, Bill 26.

Mr Bartolucci: Do you think that's right?

Mr Fox: I think the government should have within its power to stop this, but do it within reason. Not every case is going to be hit with a baseball bat.

Mr Bartolucci: In consultation with the association?

The Chair: Thank you, Mr Bartolucci.

Mr Bartolucci: Yes? Thank you.

Ms Lankin: Mr Fox, thank you very much for your reflections on the health care system and the changes that you've seen or haven't seen. Some of the things that you've raised as issues of concern are in fact things other people have identified as cost drivers in the health care system. If I may, I just want to take a couple of moments and share with you some things I'm aware of, though, that have happened in those areas, and hopefully that will make you feel a little bit better about what's gone on.

Just in response to Mr Clement, let me say that while you say no one should be proud, let me tell you, personally I'm quite proud of some of the things that we accomplished when I was in the portfolio of Minister of Health, and I'm going to tell you a couple of things.

The costs of the health budget were increasing by 10%, 11%, 12% every year for over a decade.

Mr Fox: And 13% this year.

Ms Lankin: While I was there, we brought down the growth of cost of the health budget to 1% the first year and to flat line the second year. Some of the things that you addressed, lab tests, for example, there are very simple solutions in some of these areas that are contributing to helping save costs. The sheets used to be long lists with all the lab tests on and it was easy to check them all off—simply reformulating those sheets, reformatting them; a very simple thing, something that the doctors told us to do and that we listened to and followed through on.

Doctors doing too many things to people in certain areas—well, it's not all fraud. Sometimes it's patterns of practice. Why is it in certain parts of the province that women are more likely to have a caesarean section than

a vaginal birth? What's the reason for that? If it's not anything to do with the health, it's to do with the patterns of practice. Government can't step in as a bureaucrat in between the doctor and the patient and make that decision. That's one of the problems I have with this legislation.

Mr Fox: That's true.

Ms Lankin: What we did was establish the Institute for Clinical Evaluative Sciences to do the epidemiological research, to develop the clinical guidelines to help influence, peer influence, doctors' patterns of practice. That'll pay off a whole lot more in the long run for the wellbeing and the health of our population than bureaucratic or political intervention between the doctor and the patient.

With respect to drugs, I agree with some of the concerns you've raised. We established a drug utilization review; there are clinical guidelines being developed at this point in time; the computer network that's being put in. Much of what this government says we have to do they wouldn't be able to do if the groundwork hadn't been set. I hear much from them about the DHC reports. Quite frankly, as Minister of Health, in many of the communities that we're talking about, together with those communities and the DHCs, I started that process. So I have a real hard time listening to them now coming and saying, "Well, we need these extraordinary powers to be able to move ahead."

Walk-in clinics negotiated differential rates. It used to be that there was a higher rate for evening or weekends which applied to normal doctors' offices. These walk-in clinics set up as a commercial situation, they open those hours and they get the higher billing rates but on a volume basis. Well, that was costing money and it wasn't necessarily good service. We negotiated differential rates that would try to slow that down.

In terms of triaging in emergency, seniors often would come in and would be admitted into hospital. We know that often there would end up being a disorientation that would take place and/or many times seniors wouldn't be successfully reintegrated back into their home and would end up going into institutions or long-term care settings.

We have early intervention programs there that help through coordinated home care nursing, VON nursing and others, to stop the admission, to get the right care in the home and to help that senior back into their home quickly for more successful opportunity to stay in the home.

These are all things that have allowed us to do the beginning of the restructuring and reform. The job isn't done, and this is where I agree with the government and with what you've said. There is much remaining to do and I hope this government will continue along that line. I think it's a shame that they can never bring it within themselves to acknowledge that it's work that's been done by others: the Liberals and the New Democrats, and Tories before that. It's an evolutionary process.

Revolutionary change will be very damaging to our health care system. That's what I fear. I think some of the powers and some of the provisions of this legislation go beyond what is required. There are other elements of it that I actually support and if I had the chance, if this bill was broken up, I'd be voting in favour of some parts

of it. But some parts of this go way too far to give bureaucrats and politicians power over what should be an issue between patients and doctors and other health care providers. That's my concern.

The Chair: Thank you very much, Ms Lankin. I didn't hear a question there. Thank you very much, sir. We appreciate your involvement in our process this afternoon and your presentation. Have a good day, sir.

Mr Fox: Thank you very much. May I just say that I would just want—I said I respected your term. I knew your term very well. I never worked with your office. But what I'm saying in effect is that we need—just stronger control is necessary and attention has got to be paid to these people down there in Kingston who are saying: "Please pay attention to these doctors. Get after them. Get the College of Physicians and Surgeons to come in." I'm just asking for a little more strength and control.

The Chair: We appreciate that.

1400

PHARMACEUTICAL MANUFACTURERS ASSOCIATION OF CANADA

The Chair: Our next group is representing the Pharmaceutical Manufacturers Association of Canada: Gerry Jeffcott, Pam di Cenzo and Paul Lucas. Welcome to our committee. We appreciate your being here this afternoon. You have a half-hour to use as you see fit. Questions, if you leave time for them, will start with the Liberals. The floor is yours.

Mr Paul Lucas: On behalf of the Ontario committee of the Pharmaceutical Manufacturers Association of Canada, I'd like to thank you for the opportunity to appear today before the committee to offer the associa-

tion's views regarding Bill 26.

I'm Paul Lucas, president of Glaxo Wellcome and a member of the PMAC board of directors. With me is Pam di Cenzo, associate director, national accounts and managed care for Smithkline Beecham; and Gerry Jeffcott, director, provincial government relations for PMAC. Pam and I are the co-chairs of the PMAC Ontario committee. Our comments on Bill 26 will focus on the proposed legislative changes to the Ontario Drug Benefit Act and the Prescription Drug Cost Regulation Act.

As a starting point, we thought it might be helpful to provide you with some background information on the brand name pharmaceutical industry in Ontario. Currently, 40 of the PMAC's 65 member companies maintain their head offices in Ontario. Many of the other 25 have a sizable presence in the province as well. In 1994, these companies contributed a significant \$1.2 billion to the province's economy.

The brand name pharmaceutical industry has met and surpassed its research and development commitments which were made in response to recent changes to the federal patent protection legislation outlined in Bill C-91. The practical result of those commitments is the industry's contribution of \$236.2 million in 1994 to research and development and at least \$1.1 billion in R&D since

1987 in Ontario alone.

Almost one quarter of the industry's research and development investments are spent externally. As a result, the brand name pharmaceutical industry is a major

contributor to basic and clinical research conducted at universities and hospitals throughout the province. In 1993-94, the brand name industry contributed \$43 million to the five faculties of medicine in Ontario which represent 13.2% of the total amount spent in these faculties on biomedical research. This investment in research has resulted in the creation of and support for numerous jobs in Ontario and has recently led to Canadian discoveries of treatments for hepatitis B and AIDS.

Brand name companies located in Ontario have a tremendous export capability and many companies have been awarded North American and global research and product mandates. With more than half of the pharmaceutical companies located in this province, it is vital that the provincial government demonstrate that Ontario has a welcome business environment. This is important to maintain current investment and employment and to attract future investment. A welcome business environment, which this government is working to address for the pharmaceutical industry, includes such issues as market access for new products, fair taxation policies, and the elimination of regulatory duplication and unnecessary regulations.

Market access in Ontario is critical. Based on a 1994 survey conducted by the PMAC, of the 77 original new medicines approved for sale by the federal health protection branch between 1990 and 1993, only 23 had been approved for full listing on the Ontario drug benefit program plan list.

We are hopeful that the government's efforts to control expenditures will result in greater opportunities for the Ontario drug benefit program to reimburse new and costeffective medications for the benefit of Ontario residents.

The PMAC recognizes that some of the proposed legislative changes to the ODB Act and the PDCR Act contained in Bill 26 have been advocated by the PMAC and its member companies over the years. The industry appreciates the government's efforts to address these issues and the Ministry of Health's commitment to reforming the drug benefit program.

The joint liaison committee was established to provide a forum for discussion between the industry and the government on issues of mutual interest and concern. The PMAC encourages the Ministry of Health to refer the regulations accompanying this legislation to the joint liaison committee for a review prior to the implementation of these changes.

Our comments today will focus on three specific changes proposed in Bill 26: the elimination of full payment for "no substitution" on prescriptions; linking prescribing criteria to reimbursement; and deregulation in

the private marketplace.

Elimination of full payment for "no substitution" on prescriptions: Currently the ODB Act and the PDCR Act provide the Ministry of Health the authority to designate any number of pharmaceutical products with the same active ingredients as interchangeable. This permits the pharmacist to substitute a generic version of a product for a brand-name medicine. Presently a physician can avoid this substitution by writing "no substitution" on the prescription and the ministry will pay the difference in price between the generic and the brand-name medicine.

Bill 26 contains an amendment to the ODB Act under which the ministry will no longer recognize the use of "no substitution" by physicians. The Ministry of Health would only reimburse the cost of the lowest-priced interchangeable product and would not reimburse the pharmacy the difference in cost when a physician writes "no substitution" on a prescription.

The rationale for permitting a physician to restrict the pharmacist from substituting is to allow for the patient to receive medication and treatment appropriate to their particular condition. In addition, in the interest of optimal drug therapy, physicians should still have the option to specify a brand of medication when it is in the interest of the patient to do so.

The PMAC believes that physicians and patients should be informed before substitution occurs. Patients should be informed in advance that they have the option to refuse the dispensing of an interchangeable product and pay the difference in cost for the brand-name product. Under the current mandatory substitution provisions of the legislation, neither the patient nor the physician is informed when a product is switched to a cheaper alternative brand.

The PMAC recommends that the PDCR Act be amended to require that the patient and physician are informed before substitution occurs. This amendment should also ensure that patients are told directly about their option to pay the difference in cost for the brand name. In addition, an expedited special authorization process must be available to allow physicians to prescribe a particular brand when, in their professional judgement, they believe it is appropriate for their patient to receive this particular brand.

Linking prescribing criteria to reimbursement: Bill 26 proposes that the Minister of Health be given the power through regulations accompanying the ODB Act to define prescribing criteria which must be met in order to ensure that a given drug product or class of drug products will be reimbursed. This provision would allow the ministry to link prescribing criteria or guidelines to reimbursement.

The PMAC has been assured by ministry officials that this change is intended simply as enabling legislation and that the ministry does not intend to link prescribing criteria to reimbursement immediately. While the industry appreciates that assurance, it does not alleviate our concerns.

The PMAC believes that optimal patient care should be the goal of any therapeutic guideline. Therefore, such guidelines must be flexible enough for physicians to exercise their professional judgement in order to meet the individual medical needs of each patient. We are concerned about a process which creates a financial disincentive for the physician to provide what he or she feels is in the best interest of the patient.

We understand that the specified "clinical criteria," as defined in the legislation, will be outlined by regulation on a case-by-case basis. Given the industry's recognized expertise regarding its products and related therapeutic categories, we believe that the industry and individual manufacturers affected by the prescribing criteria should have an opportunity to participate in the development of

these criteria and to offer input regarding the implications of their implementation.

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Deregulation of price in the private marketplace: The PMAC commends the ministry's initiative in deregulating the private marketplace for pharmaceuticals through the proposed legislative changes to the PDCR Act. This provision will reduce the government's role in regulating a market in which it has no direct financial interest. It will also create a more competitive environment in which purchasers of pharmaceuticals will not be constrained any longer by government-imposed pricing structures.

However, in light of recent articles in the press and presentations to this committee, the PMAC would like to take this opportunity to clarify the impact of these changes with respect to pharmaceutical prices in the private market. It is critical to note that the prices of all new and existing patented medicines, which represent the majority of the market for brand-name companies, continue to be regulated federally by the Patented Medicine Prices Review Board.

These federal regulations impose strict restrictions on the introductory prices of new medicines and ensure that the prices on existing products do not rise more than the consumer price index. The most recent report of the PMPRB indicates that the industry's prices have increased at rates significantly less than inflation since 1988. In contrast, non-patented products, which include all generic products, are not subject to PMPRB regulations.

Where problems could arise is in the final cost of the medication. While the factory prices of products should remain stable, the manufacturer will have no way of controlling what the pharmacist will charge the patient. This places even greater importance on the consumer being informed about the components that make up the eventual price of their prescriptions.

The PMAC proposes that an amendment be added to the Drug Interchangeability and Dispensing Fee Act requiring the pharmacist to detail the cost components, including dispensing fee, additional markup and the actual cost of the medication itself on a prescription. Given the fact that dispensing fees and the associated markups will no longer be regulated, it is important to provide a detailed breakdown of these cost components in order to enable patients to make more accurate comparisons among pharmacies.

Recognizing that the regulations accompanying this legislation are not yet available and given the increase in authority granted to the minister through the associated regulations, including the power to establish the reimbursement price for listed products and to outline specified prescribing criteria for products or therapeutic classes, the PMAC would appreciate an opportunity to review, assess and comment on the draft regulations before they are passed.

Finally, the PMAC commends the Ministry of Health regarding its recent announcement that it will eliminate offsets. This was a process in which brand-name manufacturers were required to offset the cost of adding any new medicines to the ODB list by removing a previously listed medicine from the formulary or by lowering the

prices of existing products. The new product submission process associated with the ODB formulary, which requires a pharmacoeconomic analysis comparing a new product to other treatments, will measure the cost-effectiveness and deliver cost savings to the health care system.

In conclusion, the PMAC Ontario committee appreciates the efforts of the government to address some of the issues advocated by the industry through the proposed changes to the ODB Act and the PDCR Act.

In addition, we support the consumer's right to know when product substitution is contemplated as well as the involvement of the industry in the development of specified prescribing criteria and the need for flexibility for physicians when applying these criteria. Finally, the PMAC feels strongly about the patient's need to receive a complete breakdown of the cost components of the price of prescriptions.

The PMAC thanks you for the opportunity to present before the committee and we'd be pleased to entertain any questions that you might have.

The Chair: Thank you very much. We've got about four minutes per party left, beginning with the Liberals.

Mrs Caplan: I appreciate the very excellent brief. I have a concern about something that you've raised on page 5. You seem to assume that there will be a special authorization section 8 possibility for anyone who requires a brand-name drug, which is no longer possible under the no-substitution rule. Is that your understanding?

Mr Lucas: I think what we're recommending is that there be some sort of opportunity for the physicians if they feel in their professional judgement that the patient needs that brand-name product, or in fact it could be a generic product which may be substituted for another generic product. But we feel there needs to be some sort of approval process which is an expedited process that allows that to happen when medically necessary.

Mrs Caplan: At the present time the special authorization is available for drugs that are not listed on the formulary, and I've been informed in writing by the ministry that it does not intend any mechanism to allow for the payment of a brand-name or a generic drug in a no-substitution prescription that has been written.

I'm hoping they will consider an amendment, because I think that, while there are few cases, there are some where for a whole lot of reasons the patient cannot tolerate the interchangeable product. I'm very concerned about the impact of that because, as you know, people who need their medicine, if it's not going to be the right one, their health is going to be threatened.

I agree with you, by the way, that all changes and reforms to the drug benefit program should lead to optimal therapy. I think that shouldn't just be the goal of the therapeutic guideline but should be the goal of the whole program. I think you'd agree with that.

Mr Lucas: Absolutely, yes.

Mrs Caplan: Did you have a question, Alvin?

Mr Curling: I was getting the understanding, as you read, that you'd much rather the power is in the hands of the doctor and the patient, which is much more effective. I got that point. Correct me if I'm wrong. The other part about it too is a mixture about the costs of health care

and the concern about the deficit of the government. You are much more concerned about the health of the patient. When those two things are coming together with this kind of reform, it seems to me it's the patient who suffers most, not the deficit.

Mr Lucas: We support the initiatives of the government to deal with the economic and financial issues that we're all facing today in this province. In the current health care system itself the patient may actually not be well served. We referred to a situation with drugs, for example, where the patient is actually not informed when a drug is substituted that they might be on. They might be on their heart medication for three years and, all of a sudden, they come into the pharmacy one day and there's a generic available and the pharmacist substitutes. The patient doesn't know, their physician doesn't know.

I think there's a real opportunity to deal with some of these issues around patient care, and at the same time there's a sense that there is a significant amount of money in the health care system today, and if it's used perhaps more efficiently and more effectively, we can not only save costs but improve patient care.

Ms Lankin: Paul, thank you for the presentation. It's a complicated relationship that government has with the industry. I remember switching hats from Health to Economic Development, and you were still there.

On one hand, we want to see more investment in primary research, not just secondary research—and I really do appreciate the numbers you've given us about the industry's involvement with academic research in the universities—moving away from not just simply clinical trials but to more of the original research; all of that, and of course the manufacturing capacity. On the other hand, industry wants a hospitable climate for the introduction of its drugs, particularly into the non-ODB markets. I understand the competing forces, and at the same time government has got to control costs.

The main question I want to ask you—the thing that is the newest and most different about all of this is the deregulation of the non-ODB market, and that's what has raised the spectre of concern. Yesterday we had a presentation from one of your member organizations, a competitor of your company, who indicated complete support, obviously, for the deregulation but who indicated that they believed that the government, with respect to those negotiations, would be guided by the PMPRB and that therefore it would be a simplified process, more transparent, and a diminishing role for the DQTC. I'll be honest with you that that set off some alarms in my mind, and I think you can understand why.

The Patented Medicine Prices Review Board price is a maximum price. If we're not talking about getting better value through the process of negotiating on the volume of ODB from the government, this worries me in terms of costs to the government, let alone what happens out there.

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There are two parts to it: One is the negotiations with the government and if in fact it is PMAC's position that there will need to be a lessened role for the DQTC and just more of an acceptance of the PMPRB price; secondly, on the outside, the prices. I can't see how they won't vary by volume, insurance companies and large chains versus independent pharmacists buying, and necessarily by distance and for shipping, and rural, small-town areas; and not just for the price of the drug but the other component you mentioned, which is the pharmacist's markup where they have a monopoly in town.

Can you answer that concern? I think that is a genuine concern that people have as they look at this proposal.

Mr Lucas: Well, there were a few issues in there. I will try to address those.

First of all, on the PMPRB regulations and what they allow, they allow pricing up to the increase in the CPI. I think the industry's record stands, that even though those price increases were allowed, the recent record of the industry is actually to price products below that increase in the CPI.

Ms Lankin: Could I just ask for one clarification? Do you expect that the ministry, for the ODB drugs, will pay that price?

Mr Lucas: I don't know where that came from. I have had no indication from anyone anywhere that that would be the case. In fact, the government's approach for 1996 is to offer another reimbursement freeze for all products listed on the ODB formulary, and that is certainly the message that we've had. So there's no indication whatsoever that we're going to be able to price at those levels, even though PMPRB regulations allows them.

Ms Lankin: That's what Eli Lilly said yesterday, just so you know.

Mr Lucas: Yes, I read some things in the paper. I was surprised to hear that, because we haven't heard any indication that would be the case.

Ms Pam di Cenzo: I think another point is that the federal PMPRB is actually a regulatory body that is already looking at costs and ensuring that the consumer is protected and that the user is protected by the price that the product is allowed to enter into the country. So I think the perception from the Toronto Star article, where it said the "maximum price available," is a bit of a misperception. The price that is available when it comes into Canada has got to be less than a medium price in a basket of seven countries, and it has to be lower than at least one other country.

Ms Lankin: Yes, but the point here was that if the Ontario government just used that as its guideline in what it negotiates on the price, that would probably cost us more than we're currently paying on ODB drugs. That's the concern.

The idea of these negotiations, from what I heard the minister say, was a big volume user, a big negotiator at the table with a lot of clout. We're going to negotiate hard with you guys and we're going to get rock-bottom price, which then leads us to wonder whether or not the price in the deregulated market, even though there'd be competition—I understand that argument—might not have to go up to compensate for that in order for you to be able to preserve your profit margin. I just don't understand how it couldn't.

Mr Lucas: We're still wrestling with how it can, because the ability for companies to have two prices in a marketplace is virtually impossible in the Canadian marketplace and in Ontario. There's a lot of speculation

around what may happen with prices, but the reality is that in Ontario there is a reimbursement freeze for ODB. The government is our largest customer, for all of our companies, and it would continue to get the best price, I suspect.

Ms Lankin: I think they suspect that too.

Mr Lucas: Yes.

Mrs Johns: I just want to restate that again. I know that it's probably clear for everybody; I just want to make sure. Do you agree that this bill actually provides the government with greater flexibility to negotiate reasonable prices?

Mr Lucas: On the ODB specifically? I don't understand what the process of negotiation will be, but when I hear "negotiation," I understand that as our largest customer, they're going to want the best price, and I suspect there will be an approach to achieving that. From a business point of view, it would be clear to us that, again, being our largest customer, they're going to get the best price.

Mrs Johns: Regulations already in place would allow us to give you what you wanted when you were asking for a detailed breakdown of drug costs, including the drug itself, markup and the fees. We are looking into that as a government and as the Ministry of Health, so I just wanted to let you know that.

I met with one of the people from your association and had a heart-wrenching story about a drug that they truly believed would help a number of people in the community, and they couldn't get it on to the formulary. From my standpoint, being new to the ministry, it was quite a heart-wrenching story because it relates to breast cancer, and it was really important to me to be concerned about that.

The ODB program needs to be more sustainable, obviously, in order to allow the government to add new products to the program. Do you think these new changes to Bill 26 will allow that to happen?

Mr Lucas: We very much would hope that would happen. All governments have been faced with trying to manage the cost of a program like this, and unfortunately part of the response has been to not list new chemical entities. Ontario actually has, as I outlined in the brief, one of the worst records of introducing new medicines to the formulary.

We would hope and recommend that perhaps some of the reallocation of dollars that might be able to occur in the system through better management of the system could be applied to adding, not necessarily all new drugs, but those that are deemed to be medically important and cost-effective for the system overall.

Ms di Cenzo: I think on that point as well, the emphasis that will be placed on pharmacoeconomics, first of all, allows us to move away from silo budgeting which, as the industry, we commend. We recognize that, from a treasury point of view, it's very difficult when you're trying to manage and get bottom lines and achieve the cost savings and efficiencies in government. But looking at it from the health management point of view, we need to be able to move away from those plots and recognize that costs in one area might actually offset medical costs, physician costs, diagnostic costs in another area.

By looking at the changes in Bill 26, it's going to put a greater emphasis on a holistic approach, you might say, to looking at the management of health care, and a pharmacoeconomic emphasis. Actually, Frances, getting back to your comment, the DQTC could play a greater role in being able to assess the value, the cost-effective as well as the therapeutic value, of the product and not be so duplicative perhaps of what is already a federal activity, looking at the safety and efficacy of a product.

The Chair: Thank you very much for your presentation. We appreciate your interest in our process.

ELIZABETH MARGLES

The Chair: Our next presenter is Elizabeth Margles. You have half an hour to use as you see fit. Questions will begin with the New Democratic Party, any time you allow. The floor is yours.

Ms Elizabeth Margles: I'd like to start by thanking you for allowing me the opportunity to appear before you today. As other participants have done, I would especially like to thank the opposition members who forced these hearings, for if not for them, the concerns of some Ontario citizens like me would not be heard.

I probably represent the silent majority of Ontarians. I agree with some of the policies of the Liberals, some of the NDP and even some of the Conservatives, though with regard to Bill 26, I'm not convinced that you're at all progressive.

I'm here today to demonstrate to you how an allencompassing bill like Bill 26 has much wider-reaching implications than the government has considered, how it is vacuous in some parts, how the government definitions are faulty and how, in the government's efforts for a short-sighted power and control grab, Bill 26 can lead to the disintegration of societal contribution and professional demoralization.

When I told some friends and colleagues that I had the opportunity to come here today, after finding out at 5 o'clock yesterday afternoon, I was urged by them to stick to economic and financial messages and to get away from the social messages, because finance is what the government is most concerned about. I'll give you a little bit of that, but what I'm most concerned about are the social issues involved in Bill 26.

To give you some background, I'm from Montreal originally. I moved to Toronto for school and because I believed I would have more career opportunities here. I put myself through graduate school, earning a master's degree in environmental studies, working part-time and full-time jobs the entire time. I'm now one of the youngest senior consultants in the country's largest public relations and public affairs firms, specializing in environmental communications and crisis management. Our clients are Toronto-based, Ontario-based, including the PMAC, national and international.

I love my job. I love the company that I work for. I look forward to work every day, and I look forward to continuing to build my career at the same company for many years. I work about 50 to 60 hours a week, but I enjoy myself and get so much out of it that I don't really

care, including the satisfaction of helping communicate difficult and technical issues to everyday people.

The other important part of my life is my husband. I am married to a resident in orthopaedic surgery. He also put himself through school with jobs and scholarships, first through a degree in mechanical engineering and then medical school. He's no slouch. Let's just get that off the table. Talking about hours, he works 110 hours a week. He's on call overnight in hospital three nights per week for a seven-year residency. The University of Toronto has mandatory research for at least one year of orthopaedic surgery, and he's elected to do two to earn a master's degree in clinical epidemiology. With the research comes a 30% pay cut. All this for about \$9.58 an hour.

While we certainly appreciate that his education was subsidized, as was everybody else's that benefited from our educational system, we also would like the government to appreciate that, as a young couple, we would like to plan our lives rather than be at the mercy of a punitive and coercive system that would have us move to rural Ontario.

As I mentioned, I was born in Montreal. Though my parents and extended family are still there, all my friends have also moved to Toronto. My husband was born and raised here. All his friends and family are here, including his 90-year-old grandmother, his parents who—and my mother-in-law will probably kill me for this—will soon be getting on in years, his two brothers and his twin sister. I'm so grateful that his family is here, because they have become my family. No one who has not lived hours away from all that is familiar, including family, can know the effects, the hardships and the loneliness that this can induce.

While we are not orthodox or even as observant as our families would like, the fact is that we are a Jewish family. It is intrinsically a part of who we are. We both benefited from parochial and public school growing up, and though we may go infrequently, we enjoy going to synagogue and we enjoy Sabbath dinners with his family every Friday night.

By now I've probably painted a pretty favourable picture of what my life is like, and I am the first person to recognize how fortunate we are and how fortunate I am. As an aside, I'm particularly ashamed that it took me so long to speak up against this bill. For the first few months of this government I sat by and watched all the decisions being made, and since they didn't affect my life, I didn't say anything. Now here I am because it has finally affected me. But this won't be the last time I say something.

Though I am fortunate, all this would be lost if Bill 26 is passed in its current state. We would have absolutely no representation of our religious community in a northern rural town. Our children would be the only ones of their faith, and while I fully believe in multiculturalism, it is very important to us that our children not feel singled out, different and ostracized. And make no mistake: This argument may be made for any other ethnic or religious minority in a similar position.

By passing Bill 26 in its present state, I would also be lost. My contribution to society, both socially and financially, would be greatly diminished. I would be

completely unemployable in a small, rural town and would go from being a contributing taxpayer who looks forward to earning more money—therefore paying more taxes—and buying a house—more taxes again—and sending my kids to school—more taxes—to collecting unemployment insurance for the first time in my life. This would also apply to spouses who are partners in law firms, small business owners, teachers with seniority at their school boards and to physician couples who've already established medical practices here in Toronto.

Before I get to the other faults in Bill 26, I would just like to make a personal commentary on Minister Jim Wilson's remarks on the opening day of these hearings.

I don't know what sort of personal vendetta Mr Wilson has against physicians. I am sure that there is some abuse by some physicians some of the time, just as there are some MPPs who have made some erroneous decisions, some unethical decisions, some immoral decisions. That doesn't necessarily mean, does it, that all MPPs are unethical, immoral and irresponsible? What it means is that you deal with those people as individuals and you put in place an infrastructure that prevents that from happening again.

But the minister would have us believe two erroneous and misguided premises: (1) that the way to solve the health care delivery problems, the way to solve one iniquitous situation is to create another; and (2) that all doctors all of the time are nothing but abusive, thieving, unethical snake oil salespeople, including my husband.

Just to serve as an eye-opener for Mr Wilson and his staff, I can't speak for other specialties, but let me give you a snapshot of what it's really like to be an ortho-

paedic surgical resident in Ontario.

As I mentioned, my husband works 110 hours a week. He starts work at 6:30 in the morning and usually makes it home between 7:30 and 8:00 pm. He gobbles down dinner and studies for a couple of hours before he falls asleep in his books. In clinic he sees about 80 patients a day. On OR days, he doesn't see daylight. He sees a lot of people he can help, whom he enjoys helping. He chose orthopaedics because—it sounds silly coming from a doctor—he doesn't like sick people. He sees an almost immediate and positive result of his efforts: people walking again. They are long and arduous surgeries, yet he enjoys it.

But he also sees abuse by patients, abuse by parents. At this time of year he sees the elderly abandoned in the ER. He sees trauma and death from drunk driving accidents. He sees people who don't take any responsibility for their home care, even if they've known about an elective joint replacement for months. It's all part of the job. And during all this political upheaval, he continues to love his job and continues to contribute to society.

It is I who am constantly amazed at his faith in the system and in people. But Minister Wilson's remarks go too far, as does Bill 26. Minister Wilson's remarks are an insult as Bill 26 is unconstitutional. I challenge the minister and his bureaucratic soldiers to one day in my husband's shoes. He wouldn't have the strength, ability or mental capacity to last one day, let alone qualify him for all the powers he deems himself in this bill, from judging what is a necessary procedure to deciding where

people are entitled to build their careers. We try to believe in the system and the process, but it is increasingly difficult when people like us, educated, taxpaying citizens, who give to their community either by volunteering like I do or by career choice like my husband does, are constantly and thoroughly demoralized, battered and made to think that we are expendable entities rather than contributors to the province.

As far as the vacuous and faulty nature of the bill goes, there are far more people qualified to comment on specifics, but as a layperson I see glaring examples of both. This bill allows hospital administrators to fire doctors on any basis with no appeal process. Administrators are money and resource managers, not physicians. I am no more qualified to run a hospital than an administrator is to counsel my clients. Just because an arbitrary act deems it so does not make it so, and just because someone is handed a portfolio does not qualify Jim Wilson to determine which procedures are medically necessary.

Medicine is an art as much as a science. While protocol has its place, any doctor will tell you that what medication, therapy or procedure works for one patient may not work for another. Are these subtleties covered in the bill?

I'm not sure how the ministry defines "underserviced." If Bill 26 defines it purely geographically and purely supply-side economics, then it is as shortsighted as it will be ineffective. There are underserviced areas in the GTA. My husband has been on call in one GTA hospital only to be woken up at 4 o'clock in the morning to admit a transfer patient from another GTA hospital where there's been no orthopaedic surgeon on call. I read last year that a hospital in Scarborough was looking for two or three orthopaedic surgeons for over 10 months.

As far as the north is concerned—and I know you're from there—my husband spent a couple of days in New Liskeard with a staff surgeon from the Toronto Hospital who goes up north every couple of months. They undertook routine surgeries and ran a clinic. Elective surgery patients are flown down to Toronto to have their operations. Simply, there is not enough volume to warrant a full-time orthopaedic surgeon there. It is more costeffective to fly them down here rather than invest in the equipment and staff resources to supply an orthopaedic practice up there. Would the government forcibly relocate an orthopaedic surgeon just to sit around setting bones, which a good general practitioner or general surgeon can do, all for the sake of an occasional hip replacement that could be managed better here?

As for the government's representatives and remarks on this bill, I've been watching these hearings for two days—this is what I'm spending my vacation time doing—and I'm shocked at the inability of the government representatives to get their story straight. Yesterday when the psychiatry residents were here, the government said that there may be a window, a short-term relocation, when in the bill there is no mention of any time period. The relocation is unlimited and forced. And even if it was a two-year relocation, does the government understand that fellowships follow residency, so that someone like my husband will be in his mid- to late thirties when he

starts practising? The government wants to keep someone hostage until they are 40 years old before they can practise their career where they want.

The minister was quoted as saying that he couldn't believe people would go to medical school only to practise in overserviced areas, and I agree. But I would say to the minister that if the demand is there, and it is, there are very few overserviced areas in the province. I would also say that the demand, given our demographics, is only going to grow in metropolitan areas. I would say that the minister should take a good, hard look at what he is proposing and to whom he is proposing to do it. What Bill 26 and Minister Wilson propose will take away good doctors not only from urban, high-demand centres, but away entirely from the province. It will destroy families, reduce incentive, reduce tax revenue, replace one gap in service with another and slowly but surely demoralize the profession to the point of non-existence. And when that day comes, no language in any bill will qualify the minister to cure the ills of this province.

The Chair: Thank you. We've got five minutes per party left for questions, beginning with Ms Lankin.

Ms Lankin: One of the things that I do often is try to convince women to seek political careers. I'm encouraging you, no matter what party you choose to run for, please consider it.

Ms Margles: That's why I got it out of the way first that I agreed with a bit of everything that was going on. So I'm more of a diplomat than a politician.

Ms Lankin: If you're spending your holidays watch-

ing these hearings, get a life.

Ms Margles: I don't have one. My husband doesn't have vacation.

Ms Lankin: I actually appreciate that you've been watching these hearings. I think, as witnessed yesterday and in some of the letters that I got around the motion that was moved, there are people who are watching and are very concerned.

You have said it all, and I don't have a specific question. With your permission, I'd like to use this time to read comments of other doctors into the record.

Ms Margles: Sure.

Ms Lankin: Dr David Mendelssohn, who's a nephrol-

ogist at the Toronto Hospital, says:

"Physicians have patient advocacy as their main concern. We bring that perspective to the table. We want our patients to be able to access the system when they need it and get appropriate and high-quality care when they need it. I think the public had better understand that they would be best served if both the ministry, which is concerned about cost, and the physicians, who are concerned about access and quality, sit down at the same table in a non-confrontational manner and figure out what needs to be done.

"Clearly things need to be done. Physicians understand that change is needed. We understand there is a huge debt and we're not against change. We want to be at the table so that we can protect the interests of our patients."

Dr Tom Todd, who's the head of the division of thoracic surgery at the Toronto Hospital, says:

"There are efforts being made to place remedies before us all—the professions, the population and our patients that could be sweeping in their scope, and if I understand the legislation correctly, it allows the power to implement those changes to be in the hands of a very few who perhaps don't understand the situation."

Dr Wendy Graham, who is a family physician at St

Joe's centre-

Ms Margles: Can I just say, that was one of the points I didn't have a chance to make.

Ms Lankin: Please take the time. Go ahead.

Ms Margles: The government was elected in part on the premise that it would go for smaller government. This is not smaller government; this is more power in fewer hands. That doesn't mean it's smaller government; it just means it's a different kind of government, and not the kind of government that we're used to and not the kind of government that we elected.

Ms Lankin: Dr Michael Gordon, who's the head of

geriatrics at Baycrest geriatric centre, says:

"I'm concerned that what is happening now is potentially going to fracture the medical and health care system of Ontario. It impugns the reputation and professionalism of physicians, and many components of the bill are quite authoritarian. The citizens of Ontario deserve better as do the patients and the physicians, all of whom are citizens."

I think some of those comments echo the comments that you've made. I just want to say thank you for coming and for presenting. It was most eloquent, it was most moving and I hope that the government listens. There are alternatives in terms of the Scott report and the PCCAR process and other processes. I agree with them that there's a problem that needs to continue to be resolved, but there are alternatives.

Ms Margles: I don't think you're going to find any new doctor-and that's really who this bill is directed at-any new doctor who doesn't recognize that there are problems in the system, but you can't punish one part of the profession just for the sake of other problems and other things that have been going on.

Ms Lankin: Thank you very much.

The Chair: Thank you, Ms Lankin. The government,

Mr Clement: Thank you very much for your presentation. You've given us a lot to think about and I want to assure you that we were listening intently to what you

I just wanted to clear up a couple of things though with respect to Minister Wilson and his comments, because they have been widely reported and from my perspective misunderstood. He also said in his remarks, which if you were watching I hope you had the opportunity to hear: "We want to continue to work with the medical profession in a relationship based on mutual recognition and respect. Cooperation, fairness and equity does not come from a legal document; it comes from the will to work together."

Further, he said: "We are totally committed to working with the medical profession to make changes in the system. Our joint goal must be to resolve issues and make sure that the health system responds to the needs of the people and providers."

So I would like to balance some of the reported—

Ms Margles: I'm not sure how he can rationalize working with the profession when he's trying to disintegrate the OMA and has refused to deal with the OMA,

which is the profession's representative body.

Mr Clement: Oh, I think we want to deal with the OMA. Perhaps reasonable people can differ on this, but I think it's important that the minister has made it clear that we want to be involved with the OMA. We want to have discussions with them to get to the mutually satisfactory solutions. So I can assure you that's part of the minister's agenda and I wanted to get it on the table.

Could I just ask you, though, more generally, do you think that the status quo is working in Ontario generally, but also in the health care system? Do you think it's working well for patients and for doctors the way things

have been going?

Ms Margles: As far as which problem?

Mr Clement: I know we've got lots of problems.

You're absolutely right.

Ms Margles: This is the problem with the government and this was the problem with a question that you directed at an earlier participant. You said last evening to a woman, and I don't know her name, "If you had five minutes, what would you do as Health minister?" What this bill appears to have done is that someone said to every office and every department: "You have five minutes. Go and run. Go and solve the problems." I said clearly, I am not an expert; I am a layperson. I can't tell you about the status quo. I can't tell you what specific problems need to be solved.

Mr Clement: You're a voter and a taxpayer. I'd ask you whether you like the status quo in this province.

Ms Margles: Regarding what?

Mr Clement: Regarding the way this province is run; regarding the way we have health care; regarding—

Interjection: Be specific.

Ms Lankin: How long does she have to answer that question?

Mr Clement: Let me be more specific then.

Ms Margles: I think you have four years to answer that. I don't think that in the five minutes I have remaining I can answer that.

Mr Clement: I was looking for a yes or no.

Interruption.

Ms Margles: If the status quo is the current government, then my answer would be no.

The Chair: The people who are in here as guests are

not allowed to participate.

Mr Clement: I think you're upset by the question. I'm sorry about that, but I was asking you the question because I asked a lot of people in my riding that question during the election, whether the status quo was working for them, whether doubling the debt, doubling taxes meant that things were getting better or in fact were they getting worse, do we need more hospital beds or—

Ms Margles: You know, I have to say that I resent where you're going to, okay? Just because I'm all for deficit reduction and debt fighting does not necessarily make me believe in the status quo. You're not going to get me to say that we have to fight the debt and we have to fight the deficit by whatever means necessary if that means what I demonstrated here this morning is going to occur, if what it means is putting disabled people—

cancelling their welfare, if it means all these sorts of things that have been presented to the people of Ontario in the last six months.

Mr Clement: I thank you for your views.

Mrs Caplan: I want to leave a minute; one of my colleagues also has something they want to say.

An excellent presentation. Very articulate. Very passionate. You've said it all and I know your family and your friends, who asked you to come and speak on their behalf, will be very proud of you. You talk about the environment. There are a couple of other doctors I think should be quoted and be on the record, people whom I know and whom Mike Harris should know also.

Dr Wendy Graham, who's from North Bay, said, "What I deeply regret is the present tone and attitude being expressed most recently by the government, and it will preclude an opportunity for all of us to work together to bring about the reforms necessary for the survival...."

Hugh Scully, whom I had the opportunity to work with when I was Minister of Health, said, "The kind of dialogue that's going on today is very unhelpful to patients and counterproductive to any kind of a construc-

tive partnership."

I think you've made the case. I hope that you will continue to advocate and I'm sorry that there will not be more individuals who will have the opportunity to come before this committee because the government has refused to allow more time.

Alvin, go ahead.

Mr Curling: Ms Margles, I want to congratulate you. You have put a face to legislation and, as you say, the social aspect of it. The fact is that at times, and we remind the government that they are doing it to the people, not for the people. You're doing it to them. You have put it very well. As a matter of fact, coming here, even fighting to come here, is a situation that really appalled us all in a democratic process. You're an example of what we all are fighting for in this country and we'll make no government, regardless of what party it is, stop that process. We want to thank you very, very much for that.

Mr Bartolucci: Just one question: Is this government moving too quickly?

Ms Margles: Absolutely—Mr Bartolucci: Terrific.

Ms Margles: —and in the wrong direction.

Mr Bartolucci: Great.

Ms Margles: And without a driver.

Mrs Caplan: And by the way, you are absolutely right when you say that there's a certain critical mass necessary to ensure high-quality care. I believe that's the reason they're going to back off their stupid billing number proposal, as it doesn't work, it's not right, it's unfair and there are much better solutions that will make sure that young doctors like your husband and others will know there's an important place for them. We've invested a lot in them and we can't afford to lose them.

Ms Margles: Absolutely.

The Chair: Thank you very much for attending this afternoon and making a presentation to us.

We have an opening at 3 o'clock and the next group will not be ready until 3:15. We'll recess till 3:15.

The committee recessed from 1451 to 1517.

ONTARIO CHIROPRACTIC ASSOCIATION

The Chair: My apologies for being late; we'll put that on the record.

Our next presenters are the Ontario Chiropractic Association, represented by Dr Bob Haig, Dr Lloyd Taylor and Mr Peter Waite. Welcome, gentlemen. We appreciate your attendance at our committee. You have a half-hour to use as you see fit. Questioning will begin with the government, if you allow time for questions.

Dr Lloyd Taylor: Thank you very much. We appreciate the opportunity of being here this afternoon. I'm Dr Lloyd Taylor, in general practice in Welland as a chiropractor. I do Queen's Park for the Ontario chiropractors and have done for a number of years. Accompanying me is Dr Bob Haig, who is director of government affairs to the Ontario Chiropractic Association, and Mr Peter Waite, who is executive director of the association.

You know, you're supposed to be out having Christmas holidays and relaxing and enjoying the good life, and we find ourselves here this afternoon. We appreciate the stalwartness of all these MPPs sitting here.

Peter Waite will read the executive summary.

Mr Peter Waite: Thank you very much, Lloyd. The Ontario Chiropractic Association is a voluntary professional association which represents over 1,550, which is about 86%, of the 1,800 doctors of chiropractic who are registered with the College of Chiropractors of Ontario. There are about 4,000 doctors of chiropractic in Canada and about 50,000 in North America. The profession has grown tremendously in stature and size during the last 20 years. A major reason has been its now scientifically proven effectiveness in the management of patients with back pain and other neuromusculoskeletal disorders.

The OCA has reviewed Bill 26, which proposes a Savings and Restructuring Act, with particular references to the provisions relating to health services which are found in schedules F to I. Generically, these provide the minister with legal authority to exert much greater control over, first of all, supply and distribution of health practitioners, and, secondly, payments to those who provide health services and products.

Although the proposed legislation changes contain new regulatory powers that might have a significant impact on its members, the OCA supports the need for the legislative changes and the broad framework in which they are cast.

The OCA agrees with the findings of a number of studies indicating that there is unacceptable growth and inefficiency in the health care system in Ontario and that it is reasonable that health practitioners should be subject to significantly increased accountability.

Specifically, the proposed amendments to the Health Insurance Act, which is schedule H in Bill 26, contain much greater powers to manage payments through the enhanced stature of review committees and give the ministry the necessary authority to share and give limited disclosure of health care information.

On a balance of interests, the OCA endorses these changes as necessary and appropriate.

Dr Haig will now cover our submission in more detail.

Dr Bob Haig: The Ontario Chiropractic Association has reviewed Bill 26, which proposes the Savings and Restructuring Act, with particular reference to the provisions relating to health services. These appear in the following schedules to the bill: schedule F, health services restructuring; schedule G, amendments to the Ontario Drug Benefit Act, Prescription Drug Cost Regulation Act and the Regulated Health Professions Act, 1991; schedule H, amendments to the Health Insurance Act and the Health Care Accessibility Act; and schedule I, Physician Services Delivery Management Act, 1995.

Generically, these provide the minister with legal authority to exert much greater control over the supply and distribution of health providers and over payments to those who provide health care services and products.

The OCA agrees with the findings of a number of studies indicating that there is unacceptable growth and inefficiency in the health care system. The proposed general restructuring is necessary, and at a time when the people of Ontario are providing funding of \$4 billion in fee-for-service payments, it is unreasonable for providers to argue against the need for greater accountability. When I say "providers," I am of course including chiropractors in there. It is appropriate that the government is moving from the role of a passive payor to active analysis of whether services provided are evidence-based, safe, effective, cost-effective and provided within the context of formally developed clinical guidelines.

All this is simply to say that normal market principles—that the payor should be able to purchase quality—should govern the provision of publicly funded health care services.

An example, something that is apparent to the OCA because it falls within the scope of practice of chiropractic, is the management of common mechanical back pain. I want to make a few points just with respect to this. Experts generally acknowledge that "low-back pain clearly represents the single greatest and most inefficient expenditure of health care resources in our society today."

Levels of disability from simple low-back pain, which are growing in North America at 14 times the rate of the population, are described by leading experts, including the World Health Organization, as an epidemic.

New, evidence-based, multidisciplinary guidelines sponsored by government and published in the United States and in the United Kingdom in December 1994 make very clear recommendations against many standard treatments that are paid for by the government of Ontario today. These recommendations are on the grounds of ineffectiveness—for example, with TENS—on the grounds of potential harm—for example, with some prescription drugs and steroid injections—and on the grounds that they promote chronic problems and disability, and examples of that are prolonged bed rest and the use of many passive modalities.

The guidelines that I've referred to above endorse efforts to keep patients moving with the use of exercise and early return to the activities of daily living. Within both of those guidelines, there are only two treatments which are recommended for the treatment of acute adult low-back pain. Those are spinal manipulation and simple,

over-the-counter, pain-relieving medication—two treatments for which the Ontario health insurance plan pays

very little funding at all.

In 1993 the Manga report, which was commissioned by the Ontario Ministry of Health and was prepared by health economists at the University of Ottawa—it's titled The Effectiveness and Cost-Effectiveness of Chiropractic Management of Low-Back Pain—recommends major restructuring of services for the management of back pain in Ontario. The guidelines that I've mentioned above are in fact supported by the Manga recommendations.

We cite this as an example where there is a clear need for restructuring within the health care system and for the government to take a more active role in the management of health care services. To put it in perspective, I can recall hearing the comment from the researchers that if in fact low-back pain was handled more effectively, the potential cost savings would be in the hundreds of millions of dollars, a very significant amount of money.

Many of the specific powers relevant to the accountability of health professionals whose services are funded through OHIP are found in the proposed amendments to the Health Insurance Act, or appendix H. These amendments increase authority to manage payments in various respects, such as:

Providing more control to define what services are insured and under what conditions and limitations the

services are insured;

Providing clear authority for OHIP to refuse to pay a claim at the time it is submitted and to recover any amount previously paid where OHIP believe it should not

have been paid in the first place;

Permitting OHIP, upon the direction of review committees, to recover amounts paid by the plan or under the Independent Health Facilities Act when a practitioner requests an insured services, like a diagnostic or a laboratory test, which is not therapeutically necessary;

Requiring insured service providers to maintain records necessary to establish with some certainty that services were rendered, and that the services were therapeutically necessary, and clarifying that in the absence of adequate

records no payment will be made;

Permitting the minister to appoint inspectors for the purpose of inspecting the practices of practitioners, including chiropractors—I'll throw that in—and health facilities, and setting out clearly that inspection authority.

These amendments also give the ministry the necessary authority to share and disclose information by, for

Providing clear authority for the minister to enter into agreements to use, collect and disclose information;

Extending the minister's and OHIP's authority to disclose information obtained under the Health Insurance Act if the disclosure is necessary for the effective management of health care in Ontario;

Requiring practitioners and others to give OHIP such information as may be required for the purposes of the

act or prescribed by regulation;

Permitting the practitioner review committees to provide to the governing college of the practitioner certain information relating to services rendered.

These are very clearly broad powers, but there is also a clear need, in our view, for better management of the health care system and the resources in it. On a balance of interest, the Ontario Chiropractic Association supports these new powers. Having regard to the general legislation on confidentiality of patient records and current realities, we do not see reasonable grounds for suggesting the likely inappropriate use or abuse of these powers. On the other hand, the powers are necessary to achieve accountability at a time of demonstrated unacceptable growth and inefficiency in various provider services.

Let me just say that we have, unfortunately, prepared this brief on fairly short notice. I'll go even further, to say that our general counsel, who attended the briefings on our behalf and prepared the brief, is unable to be with us. He's with his family in New Zealand at this time. I appreciate that there may be specific questions that we won't be able to answer at this time, but we'll be happy to provide anything that you wish at a later date.

The Chair: Thank you very much. We have about six minutes left per party, beginning with the government.

1530

Mr Klees: Thank you very much for a very thoughtful and I believe a very responsible presentation. I found your reference to "passive payor" very interesting. I think it concisely describes the passive role of government in the health care system over the last number of years and also very adequately describes why we have the problems that you refer to today.

I find it very interesting that you welcome, or you don't have a great deal of objection to, the issue of permitting the ministry to appoint inspectors, and yet we have heard from groups over the last couple of days that they take great exception to the issue of inspectors. Could

you comment on that?

Dr Haig: The answer is the same: It's the balance between the two. It's fair to say that there will be some members of the Ontario Chiropractic Association who might not appreciate the association taking that stance. Clearly there will be individuals of all provider groups who are not going to be happy with that and clearly it sets up the situation where there is less control by the practitioner, chiropractors included, of how things happen. But balance that off against what we see as the need for better management and we find that to be acceptable.

Mr Klees: Thank you. One other question from me. The fact is that there are a number of problems, from what we've heard from the profession and what we see objectively, within the system of how we pay for health care services that are provided. Do you have any recommendations on how we can improve or better manage that

system?

Dr Haig: I'll just take a minute here, if I might. I made reference to the Manga report, the report on the chiropractic management of low-back pain. That was referred to a chiropractic service review committee, which was a joint committee of the Ministry of Health and the Ontario Chiropractic Association that looked at many issues relating to the delivery of chiropractic services within the province. They met for about 18 months, I think, and looked extensively at things and dealt with many issues, one of which was not funding. Because of the time period it was in—it was within the

period of the social contract—funding was not one of the issues that was in there. But there were a number of things in there that dealt with how chiropractic services are delivered, and I have a copy of this that I can leave with you.

Two of those recommendations I'll just read to you now. One is, "That medical specialists be allowed to bill OHIP for a referred consultation with respect to patients referred directly by a chiropractor." The issue there is that a specialist can bill a consultation fee only if the referral is received from a general practitioner or other physician, not from a chiropractor. There are many, many circumstances where patients enter a chiropractor's office, the chiropractor determines they should be seen by a medical specialist but frequently—not in all cases but frequently—cannot make that referral, the result being that the patient has to go through the loop, has to go back to the GP before he gets to the medical specialist. That obviously is an inefficient way to do things.

If you accept, as the RHPA does, as the public does, that the chiropractor is completely qualified to do what he's doing, the government is unable to do that, because they don't have the authority to make those kinds of decisions, they don't have the authority to make the decision to allow chiropractors to refer directly or to alter the fee that the specialist gets. There are other issues

involved there, but that's one example.

Essentially the same situation exists with respect to referral by chiropractors of patients to independent health facilities for X-rays. More than half of chiropractors have X-ray facilities within their offices. Those who don't frequently have to refer patients out for X-rays. The current legislation prevents an independent health facility from taking films at the request of a chiropractor, so again that patient has to be referred to a physician and generate an extra visit before he gets to the independent health facility.

These are small examples, I understand, in the whole scheme of things, and I'm not even able to give you an idea of the volume of services that we're talking about, but clearly those are examples where things could be done better. The way things exist right now, the government doesn't have the ability to do them that way.

Mrs Caplan: Thank you very much for your presentation. It's always nice to see you. The question I have is, have you had your legal counsel review this to determine whether or not chiropractic services will be or could be, at this time or in the future, determined to be part of an IHF? As I read the legislation, the government could decide to do that with the powers they have, and I'm wondering how your membership would feel about being wrapped in under the IHF designation.

Dr Haig: Mrs Caplan, as I read it now, I read it the same way. We have not had an opportunity to discuss that with our counsel so I'm not really qualified to answer that for you, but I understand exactly what you're saying. As I said, we're in a difficult position. We felt that we wanted to make some comment on this when the opportunity arose. We're not as thoroughly prepared as we would like to be. That is something I will get back to you on, if you wish.

Mrs Caplan: I think it's important because there are implications in this legislation that I think many have not yet fully understood, which is one of the concerns we have about having this all proclaimed by January 29. Certainly we have said that we believe that there are some parts of this legislation that the government could have and must have, such as the fiscal powers and so forth, but other parts that have broad policy implications such as this, since we've had not indication from the government what their intention is around the broad powers-pretty much what they said is, "Give us the tools," as in absolute power and control, "and stay tuned." So we're very concerned because we don't think that anybody fully understands the implications. Further, Bob, it's fine for them to say, "No, no; we have no intention of wrapping in chiropractic," but Ministers of Health don't last very long, and the next guy or gal—I speak from-

Mrs Johns: From experience.

Mrs Caplan: —experience, the longevity is not such—I mean, look at all the pictures on the wall.

Dr Haig: I know.

Mrs Caplan: I'm wondering if you would be concerned about that, and the fact that once this bill passes, should a future minister decide that chiropractic services should be delivered in an independent health facility, that could be done without any consultation with your members, without any process opportunity by your members, and you're coming forward today in support of a bill that could affect them. I express caution to you because I read this bill and see things in there that you may not have contemplated.

Dr Haig: I understand where you're coming from. I very clearly acknowledge that the provisions in this bill that will apply to everyone else can apply to us just as

well. That's clear and I acknowledge that.

You know the situation that chiropractors have been in in Ontario. You know it is not mandated by the Canada Health Act. You understand that there are rights that exist for other professions within the system that don't exist for us. We view our service as one, and there's all kinds of documented evidence now, which the public is wanting more and more of, that is proving to be effective and cost-effective and has been recommended many times should be thoroughly integrated into the health care system.

Mrs Caplan: Right. The only point I'm making— Dr Haig: I'm sorry; I do apologize for cutting you off, but I'm saying that in the context of having viewed the health care system from this side of things for a while, and everything I say is in the context that we recognize things have to change.

1540

Mrs Caplan: I'm not disagreeing with the need for change; I've talked about it since 1987. What I am saying is that in this legislation, all services, both insured and uninsured, can be included in an independent health facility. We don't know what that's going to mean for chiropractic services. I guess my question of you is, would you support a delay on this bill so that we could explore those implications and your members could have a chance to come forward and let us know how they

would feel about that, before this bill is passed and in law? That's all I'm saying to you: Is your support unequivocal regardless of what the future implications might be for chiropractic services?

Dr Haig: Specifically with respect to the IHFs, I can commit now to get back to you before the out-of-town

public hearings are done.

Mrs Caplan: Great. No, I'm just interested in that because what we're doing here is exploring the potential uses of the powers of this bill, the fact that so much can be done by regulation. I just want to know how chiropractors feel about that. I'd appreciate hearing back from you.

Ms Lankin: I found your presentation interesting. I know you're always a good bunch of guys to get along with, but boy, that was pretty soft and pretty open in terms of its endorsement. I'm going to add my voice to

Elinor's to suggest to you to be a bit cautious.

What I do take from your message, which I think is very positive and I think the government will appreciate very much, is the profession's understanding for the need for restructuring and change. That has been a constant, consistent position of the OCA. I think we need to appreciate that and to understand how willing the profession has been to work through, over a very long period of time, trying to convince people that you're willing partners in that change and that you have a role to play as health care providers beyond what has been allowed for in the system under the current structure. I understand all that, as you well know.

I would just suggest to you that, in my opinion, looking at this bill, there are dangers and pitfalls in the way in which it has been constructed and in the open powers and powers to be described in regulation that we should care about and we should explore: the ability to designate eligible providers in classes, groups, by specialty, on and on, without any sense in the legislation of what the goal is or what we're trying to achieve there; the ability, by again prescribing in regulation, to determine what services are delivered where and what they're going to be paid for, unilaterally, in what volumes and to what kinds of providers and geographically different; the powers around the restructuring commission which set out no obligations, goals. Nothing is there; it just establishes it; it doesn't link it to the DHCs, to community consultation.

As to the inspection powers of the Medical Review Committee that you talked about being enhanced, I also support that, but the inspectors appointed by the minister in the general OHIP division: non-medical, non-chiropractic, non-professional, having access to those documents, being able to go into your office as a provider and take your patient records, not just to confirm in terms of fraud, and substitute decision-making around what's therapeutically necessary.

I think the greater management of the system as opposed to, someone said earlier, a passive payor in an insurance system is right. We've talked about that. But some of these things go far beyond what is necessary, I believe, and there are dangers in there.

I don't attribute bad intentions to Jim Wilson, but let me just put to you, how many years have you tried, through the Ministry of Health, to get some movement and recognition of chiropractic? How many years did it take before you got support for the Manga report to get done? You know the inherent blockages inside the bureaucracy. This power on to the bureaucracy, to me, is not necessarily in the best interests of the public overall with respect to the changes that have to happen. I would rather see the combination of providers and consumers and communities have more power with respect to these changes than the way this is going.

That's a bit of a speech, I'm sorry, but I really urge you to go through this and to be cautious, because I think there are some problems. I appreciate your overall support for what the government has to accomplish,

however.

Dr Haig: This is difficult for everyone, let's face it. It is not a partisan issue. It's not a partisan issue at all. It's not a doctor-chiropractor-government issue either. While it would be nice if everything was very clear at the start, it isn't that way, and things have to work through. We're glad to be part of the process. I'm hearing what you're saying, and Elinor as well. That specific item, we'll get back to you on. I can tell you that before the out-of-town committee hearings are finished, if we have anything else to bring forward, we'll do that, okay?

Ms Lankin: I appreciate that. Thank you.

The Chair: Thank you, gentlemen. We appreciate your interest in our process in being with us today. Have a good day.

Dr Taylor: To have two former Ministers of Health asking questions in the same room at the same time is very appropriate; at the same time in the same room is very unusual. To all of you, the very best of the season.

Mrs Caplan: You should be very worried because we

agreed

The Chair: I'm not sure whether the West Central Community Heath Centres, Walter Weary, is here. Maggie Atkinson from AIDS Action Now? We are about 15 minutes ahead of time so we will take a 15-minute recess.

The committee recessed from 1545 to 1600.

WEST CENTRAL COMMUNITY HEALTH CENTRES

The Chair: With us now from the West Central Community Health Centres is Walter Weary, executive director. Welcome to our committee. You have a half-hour to use as you see fit. Any time you allow for questions will start with the Liberals. The floor is yours.

Mr Walter Weary: I'm very pleased that you have given me the opportunity to speak here today. I have prepared a brief that I believe that has been handed out.

I would like to read it.

I would first like to give you a little bit of background about West Central Community Health Centres. We're comprised of three centres in the inner core of Toronto. Two of our centres are located in the Queen and Bathurst area and the third is on Jarvis Street near Wellesley. As you can imagine, the communities have a mixture of residents, from middle and upper middle class to some of the poorest in the city. About 40% speak English as a

first language. Portuguese, Chinese and Italian are other

languages spoken in the area.

West Central has been providing community health services since 1969. In recent years we have been very successful at removing some of the barriers that prevent many of the most isolated people in the area from accessing health services. I hope we would continue to work in that area.

We see our mission at West Central to be a resource to improve the health and quality of life of people in the community we serve. We achieve this mission by providing medical and dental services, counselling, education, community development and health promotion. We are very proud of West Central's ability to work in partnership with the community to identify needs and implement programs and services on behalf of all individuals, groups and agencies in the community. West Central has health promotion and prevention programs that are designed to enhance the health and wellbeing of all community members, as well as to help eliminate the personal, social, political and environmental factors that encourage illness.

We also work to reduce inequities that contribute to poor health and to direct our efforts towards communities and individuals with the greatest needs. As mentioned above, we work very hard to make the health care system accessible to isolated community members. We also encourage and support the right of all people to make informed choices about their health and wellbeing. West Central is committed both to providing personal, effective and efficient programs and clinical services, and to continuous improvement as we recognize the inevitability of the community's changing needs. All these goals enable us to provide effective and efficient health services.

We at West Central have some understanding of the government's position regarding the deficit. There are enormous pressures on our economy at present and it seems that drastic measures are required, but it is also important that we must do more than simply reduce services as rapidly as possible. We need a vision for the future of health care and for the future of our society.

When we reviewed the many decisions proposed by Bill 26, it become apparent that whereas Bill 26 gives the government tools to make sweeping changes in many sectors of our society, what the document needs is a clear overall vision for the future of health care that would direct those changes, and that vision is one of the topics I would like to discuss here today. With a future vision it is likely that many will assume the worst about the changes that will occur to areas that Bill 26 touches. Now I'd like to talk further about the vision.

A very important part of the democratic process requires that the citizenry of the country be informed and supportive of the government's policy formulation process. The new government has taken steps to provide leadership in the implementation of change in our society, yet in a successful democracy a government can be measured both by its ability to lead and the extent to which its policies are in concert with those supported by the majority of the electorate.

Bill 26 includes sweeping changes to over 40 pieces of legislation. It was brought to our attention approximately two weeks ago and it was only last Friday that we were

able to obtain a copy. In this short time all we could hope to do is bring forth our key concerns surrounding the proposed changes in health policy. For this reason, we can't emphasize strongly enough how critical it is that the changes not be legislated or implemented until they meet with greater public understanding and debate. A large part of the decision-making process is communications, and without effective discussion and deliberation of dramatic changes, a great deal of confusion can be created.

When we began to examine this bill, the goals and objectives for the overall process were not apparent to us. We acknowledge a need for deficit management, but what is expected is that other goals and values would be considered in concert with financial goals in order to direct and create a society that will meet the needs of all Ontarians.

Our review of the bill led us to the principles in the Canada Health Act. As you know, these principles are widely accepted and are agreed to by a broad range of Canadians. You're probably familiar with them; they are comprehensiveness, universality, accessibility, portability and public administration. These basic principles provide an enormous measure of support and solace to Canadians. They form the basis of the Canadian medicare program, which was designed primarily to lessen the devastating financial hardship that many families faced when a family member became ill for a period of time prior to medicare. They ensure that comprehensive health care is available to all Canadians on like terms.

The goal of medicare was and still remains an issue of equity in the use and financing of health services. It's at this point that I must ask the question: Is the government committed to the principles of the Canada Health Act? If the answer is no, what principles or values other than the need to reduce the deficit are behind the many legislative changes in Bill 26? Does this bill strengthen or erode the principles in the Canada Health Act, and is the government committed to the equity expressed therein?

We're very concerned that the government may have as one of its objectives in the proposed omnibus bill the removal or reduction of the principles expressed in the Canada Health Act. Only last Thursday there was a quote in the Toronto Star attributed to your Finance minister, Ernie Eves, who was at that time talking about the Canada Health Act. It stated, "Maybe what we should be talking about is having a set of national principles and objectives as opposed to federal standards imposed by the federal government." It's therefore important that the government clearly delineate whether or not it will support the principles in the Canada Health Act. If it will not, it should spell out the principles that it does hold in high regard so that we are able to ascertain exactly why the concentration of powers as indicated in Bill 26 is necessary, and what they are going to be used for.

I would like to say at this moment that I recognize that it might be possible to trust the current government with the kinds of concentration of powers that are expressed in this bill and it may be possible to trust the participants who are here today, but there's no guarantee that those people will continue to be in charge in the future, and I am concerned about making legislation that could be used for other purposes than what was intended.

G-521

Inequity is another issue that we were concerned about. The recent reduction in social assistance has had a major impact on many of West Central's clients. Already people are unable to cover the costs of the basic prerequisites of health, such as food and clothing and shelter. The omnibus bill heightens this inequity. The imposition of copayments will have a great impact on social assistance recipients and low-income seniors.

I would like to just mention that copayments, although they could seem like a small barrier to receiving health care, could for someone who was elderly and perhaps receiving a large number of medications, which is quite common with the elderly, have a large impact. It's common for elderly people to have 10 or 12 different medications, and if for each they pay \$2, that comes to \$20 a month or maybe more. That will have a big impact on the ability of those people to acquire the medications.

I would also like to say that it in a way is forcing physicians to try to prescribe in a different manner so that the seniors could avoid paying the fee. That might mean that physicians end up prescribing for three or four months of medications, and that could easily cause confusion both by the senior and by other people who are involved in giving the medication. Having a lot of pills around the house is not wise either, because I think children often mistake them for candies or eat them, and that could cause other health problems.

1610

The deregulation of drug prices and the imposition of a wider range of facility fees are all going to increase the hardship on our low-income populations. These sectors already bear an enormous burden due to the battle against the deficit. The imposition of user fees in the past has never been successful in lowering costs and reducing the utilization of the health care system. What it has been successful at is reducing its accessibility to low-income groups.

Our health centre does in fact deal with a lot of lowincome groups. One of the three centres works primarily with street youth, who have very few resources—many don't even have social assistance—and any kind of user fees are going to be an effective barrier against them

receiving health care in the future.

For example, treatment postponed to a later date could result in more expensive interventions. Before coming today I talked to our physicians. They could have gone on forever about this issue, but even with acute problems such as a chest infection, if someone avoids taking antibiotics early on in the infection at a cost of \$10 or \$12 because of user fees or whatever, the infection could spread, perhaps resulting in something like pneumonia, and that in turn could lead to emergency care at a hospital or even longer term care after admission in the hospital. The cost would then escalate not simply by a factor of two or three, but maybe by a factor of 10, or even 100-fold. Chronic conditions affecting the elderly and I guess I've seen this already in our health centre where people are unable to get medication that they require for things like hypertension and asthma and diabetes—can lead to much more serious issues such as stroke or heart attack, kidney disease, and in the case of diabetes, I guess blindness even.

For these reasons, we regret the implementation of user fees into a health system that is based on the principle of universal access.

The next item is confidentiality. The relationship between patients and their health care providers is an extremely sensitive one. Without a patient's full confidence and full disclosure, the health care provider is at a serious disadvantage during the process of assessment, diagnosis and provision of appropriate treatment. Disclosure is also an integral part of health care prevention in order that appropriate education and support can be provided to patients.

Bill 26 gives expanded authority to the Minister of Health to inspect, copy and disclose confidential medical records. This disclosure by government includes the release of information to third parties such as law enforcement agencies, as well as other ministries, provinces, police forces and perhaps even private sector organizations.

If patients cannot be guaranteed confidentiality while interacting with health care professionals, they will not disclose important information. This is particularly important I guess in the area of drug use or alcohol use, alcohol being a primary one, or sexual preference, where

disease prevention can be very effective.

Ultimately, higher costs would be encountered by the system as diseases will be revealed in more advanced stages and with greater frequency. The bill must be amended to provide assurance that medical information will be as strictly protected as it is at present. For example, health insurance staff and inspectors reviewing cases of suspected fraud or medical misconduct are sworn to confidentiality. West Central agrees with the Ontario privacy commissioner's conclusion last week that the privacy of Ontarians is at risk. It's a very big part of the service provided at West Central that we are able to gain the trust of people and that they are assured that the information that's disclosed in the privacy of the physician's or nurse's office stays at that point. If we aren't able to provide that assurance, it's very clear to us that we will not be given the information upon which to act, and that ultimately will be very expensive to the government.

"Canada first" is another issue that was raised. According to the Globe and Mail of Monday, December 18, 1995, there are over 900 independent health facilities licensed under the Independent Health Facilities Act. These facilities provide a wide variety of services such as ultrasound, nuclear medicine and X-rays.

According to the article, "Amendments to the Independent Health Facilities Act would drop the existing requirements that the province in its funding decisions encourage Canadian-owned non-profit health care clinics." This explicitly encourages foreign ownership of many of Ontario's health care agencies when at present we have an effective and competent non-profit system providing the same services. Is this an attack on the values expressed in the Canada Health Act that established public administration and universal health care? Is it the intention of the government to make our health care system similar to the American approach, which has already been proven to be less efficient and more costly than the Canadian health care system? Neither the

omnibus bill nor the government has been clear on this point, and we hope that you clarify your direction before proceeding further.

As you are no doubt aware, the Canadian single-payer system is much less costly to administer than the American health care system. In the area of administration alone, the Canadian system costs approximately a fifth of the American system. In addition, the costs associated with health care in Canada have been increasing at a lower rate than those in the United States. It's in this area that we'd ask the government to exercise deliberation before proceeding, for in the haste to cut the deficit, we might end up creating a system that is more costly than the current health care system. We might end up with a system that does not have the financial restraints built into it that the Canadian system has. Some of these constraints are the negotiations between physicians and hospitals around fees and payments and the ability to ban extra billing.

Again we have to ask the question, what are the values, other than deficit reduction, that are propelling Bill 26, and what is the future of health care that the Progressive Conservative Party is promoting in Ontario? Any planning process must answer questions like these prior to setting out its strategic direction. We would hope the government will be able to provide the people of Ontario with these answers before proceeding with the centralization of powers that Bill 26 is proposing.

Public participation: Like many countries, Canada has a long and time-honoured tradition of public participation in the management of its programs. For many public institutions, the board of directors is an integral part of the feedback process that ensures that the community is both informed, knowledgeable and able to influence decisions that are made within the organization. Under the proposed Bill 26, the Minister of Health is assuming responsibility for almost unlimited authority to close public and private hospitals with no prior public consultation or local input.

In the past, it has emphasized a strong commitment to the enhancement of the voluntary sector and local responsibility, but this unprecedented centralizing of power at the ministerial level strips the voluntary sector of the opportunity to give valuable input. This will discourage responsible community-based decision-making. In Canada, participatory decision-making is a hallmark of both public administration and accessibility, and the changes proposed by Bill 26 greatly reduce the role of community volunteers in this area.

In addition, it is highly unlikely that the government will have an in-depth knowledge of the thousands and thousands of issues important to the many communities of Ontario. I know you're well informed, perhaps much more well informed than the average citizen, but it's not possible for a centralized government to understand the details of each and every community. Speaking from personal experience as the executive director of a community health centre which serves maybe 15,000 or 20,000 people in a community of a couple of hundred thousand—and we only have 30 staff—it's impossible for me to know the details of everything that goes on in our health centre and of all the services provided by the

health centre. It's only through consultation with the community and with people at the health centre that I'm able to understand the changing dynamics in the community, and I think the same applies to the government.

When you're going to make a decision, or as many decisions as this bill entails, you really do have to spend time testing the waters first so that you get a sense of the real impact of that decision or those decisions on the community, and I would encourage you to follow a course of action that allowed that.

1620

It might be appropriate to close a hospital here or a health facility there, but actions of that nature should not be taken without full consultation of the community affected. It's only after this consultation that the government, with full knowledge of the issues at hand, should act.

I'm not saying here that the government should always do everything the community says. It's not a practical solution necessarily, but you certainly should know the variables that you're dealing with before you make the decision.

In summary, I'd like to return to our original question: Does this bill strengthen or erode the fundamental principles underlying our existing health care system, and does it reflect a commitment to equity as expressed in the Canada Health Act?

We would have to say that it all depends on the emphasis given to those values other than deficit reduction. The changes in Bill 26 could only be fully understood by all Ontarians after an open and public debate in the light of the principles stated earlier. This debate can hardly occur when over 40 pieces of legislation are being altered hastily in a bill of this sort.

On the one hand, we commend the government for its efforts to try to manage the affairs of the day effectively but, on the other hand, we caution them in proceeding at this pace without the support of a fully informed public. It would be unwise, and perhaps reckless.

I'd like to stop there and thank you very much for the opportunity you have given us to give our comments on Bill 26. I very much hope you will benefit from the time and effort that you have invested in these hearings, and that you will seriously consider the issues raised in the many deputations you have heard and will hear regarding Bill 26 in the coming weeks.

The Chair: You've left us with one of our greatest challenges in this committee, time for three quick questions, starting with Mrs Caplan.

Mr Bartolucci: Thank you, Mr Chair.

The Chair: Oh, Mr Bartolucci.

Mr Bartolucci: We've assumed different roles now. Thank you very much for an excellent presentation. What you've done here is you've taken, I think, the concerns of everyone who has presented and very, very succinctly posed problems and fears that not only you but every other group who are wary of this legislation feel.

Let me ask you one simple question. Are you fearful that the ministry isn't fully aware of the powers it has given itself with regard to the long-term health care issues? Mr Weary: I can't answer whether the ministry is fully aware or not, because they haven't consulted me. I can say that I, and I think many other people at West Central are concerned that the centralization of power could lead to decisions that might be harmful in the long run. I certainly think the ministry is in many ways well informed, but some of the changes I have seen I think are going to end up costing society a great deal.

Ms Lankin: I'd like to ask you a question about the macro picture in a question that you posed around the vision. The previous government adopted a sort of strategic direction which included a framework of decision-making based on determinants of health for the

whole government.

So far, we've seen this government cut income assistance to people, cap pay equity payouts, eliminate the proxy pay equity, which is in this bill, for the lowest-paid women, and eliminate social housing programs. Just this week they removed a ban on municipal incineration without putting in place the strict guidelines they promised they would do. This legislation allows for user fees on community and social recreational services. There's a reduction in access to early childhood education.

The first part of my question is, are these things consistent with a determinants-of-health framework? Secondly, on the issue of universality, in terms of medicare as part of the vision, under the Health Care Accessibility Act in this bill, it allows for user fees to be put on insured services in hospitals. We know under the Canada Health Act that while that might be permitted, there is a clawback through transfer payments to the province from the federal government. No government in their right mind would introduce that if they thought the money was just going to be clawed back. Put that together with the Finance minister's statements looking for flexibility in the Canada Health Act, and it strikes me that there is a worry about the government division with respect to universality and the potential of a two-tier health care system. Can you comment on those two areas?

Mr Weary: You're right, it is macro. I would say that the handling of the deficit is definitely in many ways inconsistent with, or can be seen as inconsistent with, providing good services in society and that many of the cutbacks that have occurred have had a major impact on

the determinants of health.

I personally am glad I'm not the government at the present time, because I think the decisions it's got to make are very hard, very tough ones. But I do think some of them—the removal of shelter, the reduction of food costs in the budgets of low-income people—may not be as wise as they could have been. The result will likely be added costs to the system in the future, and I think already at our health centre we're beginning to see that as people come in.

The Chair: Thank you, Ms Lankin. You weren't quite as good at a quick question as Mr Bartolucci was.

Ms Lankin: Thanks for your comments, Mr Chairman, your opinion is important to me.

The Chair: I just had to throw that in.

Mrs Caplan: Keep the cards and letters coming. The Chair: I know that you will dwell on that.

Mr Weary: I wish I could chair our staff meetings with the same strong hand.

Mrs Ecker: Just very quickly, you raise a couple of questions. Just ease your mind that Bill 26 is not going to undermine the Canada Health Act because we believe in the Canada Health Act. Secondly, the independent health facilities legislation extension: The reason we want to extend that is because of the excellent quality assurance provisions that are under that legislation which the Liberal government brought in.

The other thing I think it's important to note is that when the Independent Health Facilities Act was brought in, there were many for-profit centres that were grandfathered under that legislation, so there certainly is no concern, I don't believe, about profit or for-profit. I think what is important is, are the regulations going under that legislation leading to quality assurance? We think they are, and so that's one of the reasons we want to extend that.

What I did want to just quickly ask is, as someone in a community health centre where you're seeing the need for reallocation and restructuring within the health care system to take some of the resources out of the hospital sector—the acute care—and putting it into community-based, has that happened enough in the past and do you see it happening now and is it happening fast enough?

Mr Weary: I think in the past that the government has been very slow to respond when it takes money away from one section to put it into another section. Indeed, I guess if I were forced to generalize, I would say it doesn't always happen the way you would like it to.

I think it's very important that as the changes, especially to the hospital sector, happen, money be put into the community to pick up a lot of the loose ends. Otherwise, the costs will come back at the government later on. I'm not sure if I answered it directly.

The Chair: Thank you, sir, for your presentation this afternoon. We appreciate your interest in our process.

AIDS ACTION NOW

The Chair: Our next presenters are from the AIDS Action Now committee, Maggie Atkinson and Tim McCaskell. Good afternoon and welcome to our committee. You have a half-hour to use as you see fit. Any time you allow for questions, we'll begin with the Liberals. The floor is yours.

Ms Maggie Atkinson: Thank you. I'll just introduce ourselves. I'm Maggie Atkinson, obviously, and this is Tim McCaskell. We're from AIDS Action Now. I'm the co-chair and Tim is a past chair of AIDS Action Now and is currently a member of the steering committee.

AIDS Action Now, as some of you may know, is a volunteer organization. It's Toronto-based in Ontario and it is a completely volunteer organization; we accept no funding from government or from pharmaceutical companies. The majority of our steering committee are people living with HIV or AIDS.

Tim will begin our presentation. I'm sorry that we don't have a brief, but we'll follow up with a written submission.

Mr Tim McCaskell: In terms of an introductory remark, I wanted to say something about our concern with the scope of this bill, and to try to impress upon you the fact that decisions made at this level which may appear to be purely administrative or financial have real ramifications on the lives of people living with AIDS and HIV and on questions of public health in this province, and that decisions made precipitously, without consultation, will not serve the interests of people in this province.

As an example, I wanted to speak about the part of this bill that would allow the minister access to personal medical information for purposes prescribed by cabinet. This, we're assured, is in order to prevent fraud from taking place, and it would seem on that level to be a perfectly reasonable kind of request. However, in terms of the lives of people with AIDS and HIV, serious ramifications would come from that kind of legislation. When we're talking about AIDS and HIV, we're talking about a stigmatized disease that's affecting particularly vulnerable communities.

Often, the only person with whom a person at high risk for contracting HIV might be willing to discuss, or to whom they would disclose their situation, would be their family physician. Fear, however, that those personal records of their family physician might end up in the hands of a bureaucrat or a politician would mean that people simply won't disclose, and with less disclosure there'll be less counselling, with less counselling there'll be less testing, and with less testing there'll be less treatment, less early diagnosis and less early intervention, and therefore we'd be maximizing the spread of this virus because people will not be equipped to deal with it.

That isn't the intention of the bill, but it certainly would be the effect of it, which is why we feel that bills that centralize power in this way are precisely so dangerous for people living with AIDS and HIV and for the

public health of people in this province.

I understand that this morning people from the AIDS Committee of Toronto and the Toronto People with AIDS Foundation spoke to you, and we certainly want to reiterate many of the concerns they brought up. Our presentation will focus more on questions of drug cost and availability, and access to physicians.

The first thing I wanted to bring up was the question of user fees. The bill allows the government to impose a minimum \$2 charge per prescription for people obtaining benefits under the Ontario Drug Benefit Act, and it would give cabinet powers to enact other user fees and other

copayments without consultation.

People with AIDS and HIV often find themselves dependent on the Ontario drug benefit plan to pay for prescriptions. Unable to work, we often find ourselves on or below the poverty line. A \$2 prescription fee may not seem like a great deal, but where we're talking about people who routinely may have to submit 10 or more prescriptions per month, 12 months a year, we're talking about whittling down an already meagre existence to levels where such basics as nutrition will be seriously put into jeopardy, and where nutrition is undermined, health is undermined. That has the potential of starting patients on a vicious downward spiral which ultimately will cost

the health system a whole lot more because people will find themselves in hospital and much sicker.

Furthermore, on the level of principle, I think what we're looking at here is a kind of regressive form of taxation where the poorer and the sicker one is, the greater percentage of your income you will end up paying.

In terms of AIDS and HIV, any changes which discourage people from filling prescriptions or which lower already marginal standards of living will be a false saving and will ultimately cost the health system a great

deal more.

The second area I want to look at is the deregulation of drug prices. Presently, drug prices are standardized across the province by the Prescription Drug Cost Regulation Act. Repealing the power to regulate, which Bill 26 envisages, will at the very least undermine the uniformity of drug pricing. The idea is, of course, that freed from this regulation, the market will determine the lowest feasible cost for drugs, but that kind of classical economic model presupposes mobile consumers who can shop around for the best possible price and competition between pharmacies.

People who are sick, however, are not mobile consumers. They're not going to be able to spend all day trekking around from pharmacy to pharmacy depending on the price of different drugs. People living in remote areas will have even less choice if there's only one pharmacy in town. What that means is that people will be paying widely different costs for similar drugs across the

province.

What people with AIDS and HIV need to know is that the most convenient pharmacy will offer standard prices and that one pharmacist will oversee all our pharmaceutical needs. If I have to go to one pharmacy to get one drug and another pharmacy for another drug because it's cheaper there, then I lose any kind of continuity and, quite frankly, I count on the pharmacist to oversee the silly mistakes that my doctor might occasionally make, because those mistakes in my case could very well be fatal. We feel that deregulation as is proposed in this bill can only be detrimental to people living with AIDS and HIV.

Finally, the alteration to the way that drugs are listed on the formulary: The present procedure is that the DQTC recommends drugs to be entered on the formulary and the minister approves them. We already have serious problems getting new AIDS drugs on the formulary in an expeditious manner. It may take up to a year. The minimum time it takes to get a drug, once it's approved in Canada, on the formulary is approximately three months.

We feel that any changes that place more responsibility on an already overburdened cabinet, which has little expertise in this area, can only slow down this process and further delay access to life-saving medications. If this were one or two drugs, maybe there would be room for manoeuvre, but I think people have to recognize that, in terms of AIDS and HIV, new treatments are coming down the tubes all the time. This is a serious, continuing problem we have. Anything that delays those drugs getting on the formulary delays those drugs getting into people's bodies, and that can be a life-and-death situation.

The bill also gives cabinet the power to establish clinical criteria for use of drugs under the ODB. I think that people in Ontario go to doctors to find out which medications they need, not to politicians. We sincerely doubt that cabinet has the expertise to second-guess the medical treatment that doctors are prescribing. That kind of second-guessing will really interfere with the doctor-patient relationship, which is essential to our medical system. Once again, these changes, no matter what their intention, we feel can only be to the detriment of people living with AIDS and HIV in the province. Maggie wanted to talk about access to doctors.

Ms Atkinson: There's currently a shortage of physicians in this province who will treat people with HIV and AIDS. This is a problem which was rated as a priority by the Ontario Advisory Committee on HIV/AIDS in Ontario's HIV and AIDS Plan to the Year 2000. The restriction of new physician billing numbers in Toronto would have a potentially disastrous effect on HIV primary care in this province.

What we would like to see is, if there is going to be any restriction on new billing numbers for physicians in Toronto or in any major centres, that there be provision made so that any restrictions on new billing numbers would not apply to physicians who indicate an intention

to specialize in HIV primary care.

Approximately 16,000 people in Ontario have tested HIV-positive. There are probably a lot more who haven't already tested. Seventy per cent of those who have tested positive live in Metro Toronto. Approximately half of those who have tested positive and who are undergoing treatment from physicians are seen by a small group of doctors here in Toronto, the Toronto HIV Primary Care Physicians Group, and there are only 50 of them.

Fifty doctors here in Toronto are seeing half of the 16,000 HIV-positive people in Ontario. They are severely overworked and stressed. Some of the physicians who have been involved in HIV care since the beginning of the epidemic are fatigued and they are pulling back from their practices. Their practices are actually closed to any new HIV-positive patients. There's a crying need for new physicians in this area.

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We have found that there's a real reluctance among GPs to practise in this area. First of all, part of the problem seems to be the stigma that surrounds this disease. Part of it's probably due to homophobia, but there are also disincentives in the current medical remuneration system that prevent doctors from going into this area or continuing in this area.

For example, if you look at the Toronto HIV Primary Care Physicians Group, they make a substantially lower amount per year than other GPs because the fee-for-service remuneration model does not adequately compensate them for the amount of time they have to spend with individual patients, nor does it compensate them for the

paperwork they have to do.

There's not only the paperwork for insurance forms, disability forms, which people on disability can't afford to pay for, but also the paperwork involved in enrolling patients in clinical trials, in access to drugs under emergency drug release programs and through open arms of

trials. All this is paperwork they have to take on in order to provide adequate care for their patients.

We would like to see some of the recommendations of the report, Ontario's HIV/AIDS Plan to the Year 2000, implemented, but in particular we're concerned that new doctors need to be encouraged to enter this area and therefore that there not be any restrictions on billing numbers on doctors who will specialize in this area.

We believe that HIV care has been recognized and should continue to be recognized as an underserviced area of practice and that underserviced areas shouldn't be looked at just as a geographic problem. It's clear that, even in Toronto where there are approximately 4,000 GPs I believe, HIV is an underserviced area. In recognition of that problem, there shouldn't be a restriction on billing numbers for doctors who are interested in entering this area.

We are aware that there are some interns who have expressed an interest in this area, who have done some specialized training in this area, but they are discouraged and concerned, as are we, that they won't be able to practise in Toronto if there's this kind of restriction. We'd like to see at least some kind of provision made for this.

Those are our main points. We'd be happy to answer

any questions that you have.

The Chair: Thank you very much. We have about four minutes per party, beginning with the Liberals.

Ms Lankin: Mr Chair, I don't want to tell you how to do your job, but you're out of rotation.

Mr Clement: Yes, she's right.

Mrs Johns: Tell him how to do his job.

Ms Lankin: I'll just begin while you're looking at your list.

The Chair: Is it your turn? My apologies.

Ms Lankin: Not a problem. Thank you very much for your presentation. I want you to know that we've heard from other groups who have talked about underserviced areas of practice as opposed to underserviced geographic areas. Psychiatric interns were before us who talked about certain psychiatric specialties in terms of people who have suffered, for example, from childhood abuse or certain ethnocultural—I think that you make the case very well and I think it is well known within the ministry the problems with the underservicing and certainly the problems facing those physicians and how stretched they are as a group.

I believe that the government has got that message and I hope that if they do continue with this billing restriction—and I think there are some problems with that whole approach—that that message at least has already

gotten through.

The other thing I want to just comment on quickly that you raised was on the deregulation of drug prices. You're the first group to present this issue of what it would mean for those who are not ODB to be going from pharmacy to pharmacy to shop for the lowest price, particularly if they are multiple drugs that a person needs as a person living with HIV or with AIDS—that's obvious—the loss of the pharmacological counselling and control of the drug program that a patient is on. That's an issue we haven't heard and it's an issue I think we need to raise and to perhaps get some response on from the ministry.

I'd like to ask you a question around privacy. We know that the government intends these new powers given to ministry- appointed inspectors in OHIP to be used for the purposes of rooting out fraud. We know that and we understand that. But the privacy commissioner and others have raised concerns about what inadvertently happens with those powers, and you've raised the concerns about the fear that people have.

I remember when we put in place the anonymous, nonnominal testing, there was a medical officer of health in one jurisdiction who wanted reporting built in and the fear that that struck in the community and how resistant people were. I was convinced at the time that really would threaten the success of the testing program. I'm wondering if you would just elaborate on that because I think it would be helpful for members of the committee who are going to deal with this to understand how pervasive that is and what it means for the community.

Mr McCaskell: I think there are two levels to do with privacy. There's a level of principle, that people have the right to their privacy, and I think everybody understands that. But I think that the level we're dealing with here is something which I wouldn't say is more serious but is serious in a different way, because what we're talking about is what lengths people will go to to preserve their privacy and how that can affect public health.

I know of people who were working, had an insurance program, and when they were diagnosed with AIDS and HIV bought their own drugs rather than put those drugs through their insurance program because they didn't want people in their office or even in the insurance company to know what they were suffering from since the drugs

they had would be AIDS-specific.

That may or may not be paranoia, but it is a real fact. If the people who are at high risk of contracting HIV and AIDS feel that their medical records are not completely and utterly private, they will go to enormous lengths to maintain that privacy, and that would mean not seeking out physicians and it would mean never testing. We know that once people test, their behaviour in terms of responsible activity changes dramatically. But people who think they may be infected but don't really know for sure can always talk themselves into not following safer sex guidelines.

Mrs Johns: I appreciate your coming here today. I think the minister has clearly indicated that AIDS is a priority of the government. We have met with some of the AIDS organizations, so we are trying to understand a

number of the issues that you've presented.

Can I just say that the proposed restriction of billing numbers would have exemptions in it for physicians providing care to people living with HIV, being HIVpositive, and other specialty areas that we have to hammer out, but that's I think very important. Also, the minister has said at this particular point that we're going to wait for the OMA to give us recommendations on how to deal with our rural and northern problems without using billing restrictions.

We would certainly like to do that as a government and so we await the results of PACA, the provincial advisory committee on AIDS, and we await the results of the OMA to be able to tell us how we should proceed

with that. This is in here in case recommendations don't come along and we need to use that.

Regarding the listing of drugs, there's no changes to the role of the DQTC. Our reforms, we believe, will allow us to ensure sustainability of the program and increase maybe the ability to add drugs to it. In the past there's been this great pressure on the drug plan because it has tripled in 10 years, and we've had to delist drugs in previous governments just because of those kinds of pressures. We would like to be able to add new drugs to it, especially in the area of HIV and AIDS. We have to make it more sustainable and affordable for that to happen.

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Any suggestions, if we don't implement this system, how you would like it to be done? Obviously, we can't just keep letting it grow, tripling in 10 years. Anything that you can give me as recommendations?

Mr McCaskell: I think we have to recognize that in terms of AIDS and HIV, we have therapies now which really do slow the rate of disease and that although you may end up paying more for drugs at the ODB level, you're saving enormous amounts from people who

otherwise would find themselves hospitalized.

When studies have been done, it's been shown that pharmaceuticals are the cheapest kind of medical care, much cheaper than having somebody in a hospital bed with an IV in their arm or whatever. So certainly in terms of AIDS drugs, we have 3TC, which has just been given its notice of compliance and we have three new protease inhibitors. There's going to be more demand for those new drugs and they're going to be expensive. However, I think we're going to see on the other end a lot fewer people very sick in hospitals absorbing huge amounts from the medical system. So I think we have to look at an overall cost analysis, and not simply focus on the ODB section of it, because that in fact may be the most cost-effective way to deal with this disease.

Ms Lankin: Mr Chair, I have a point of order, please: If you recall, at one point in time I placed a question of clarification to the parliamentary assistant to the minister and requested that she clarify something in the act. I was told by you that she was not acting as a parliamentary assistant to the minister, not representing the ministry, was not responsible for carrying the bill. We've got no one here responsible for carrying the bill to clarify things. Yet I just heard the parliamentary assistant provide information that the billing number restrictions will not apply to the underserviced area of specialty dealing with HIV-AIDS patients. I'm glad to hear that. It's the first time I've heard that. We've had other groups come

forward.

Either you are representing the ministry and speaking for the ministry and interpreting this bill or you're not. I would really like as a matter of order to request that the ministry have somebody here who has carriage of the bill who can clarify questions for us and that we don't get piecemeal information that pops out in response to groups' legitimate concerns.

Mrs Johns: That piece of information is in the public document in the backgrounder that all of us have, I

believe.

The Chair: That's really not a point of order. This morning I clarified the issue that there is nothing in the standing orders that requires—

Ms Lankin: No, I agree. It is only precedent and history and tradition.

The Chair: —and those are what we are operating under.

Ms Lankin: I know we're not operating under precedent, history and tradition.

Mrs Caplan: I want to take a few minutes to make some comments about your very excellent presentation and I think the very legitimate concerns that you have raised. You have presented some important new information for the committee, things that we haven't heard before.

I will be spending a few minutes at the end of my time to put some things on the record, Mr Chairman, so I give you notice of that.

While there are fine words from the parliamentary assistant to the minister, this legislation does not contain an exemption. The powers are so broad that they may or may not do that by regulation, but the reality is that there is nothing in this legislation that should give you comfort that this will happen, nor comfort that it could be changed at any time in the future—without consultation, without discussion—because it is part of the broad regulatory authority.

My question is, do you believe that if there is going to be an exemption, it should be contained in the legislation, or are you satisfied to have issues like that dealt with behind closed doors at the cabinet table, without consultation and without sorviing?

tion and without scrutiny?

Ms Atkinson: Obviously, we would prefer to see that there be provision in the legislation for exemptions for underserviced areas in general. I don't think there's probably a necessity to define which are underserviced areas. In fact, that may change from time to time.

Mrs Caplan: You could define a broad underserviced area with some criteria for what that would mean and then allow by regulation as they need the flexibility to identify programs or disease-specific needs. To me, that would be appropriate. But to have legislation that is this unclear, I think your concerns are justified.

Ms Atkinson: I agree. I think probably most of the groups that are coming before you are concerned about the sweeping nature of the legislation and how broad it is and that it's very hard to know exactly what the implications of it will be. So of course we would like to see some protection within the legislation providing an exemption for underserviced areas.

Mrs Caplan: That's one of the reasons why we have requested that those components of the health legislation that are not urgent—and I don't believe that this is one that has to be dealt with by January 29. These kinds of issues certainly could receive greater scrutiny. If they would sever those portions of the bill, would you support some additional time at committee to explore possible amendments and deal with it in perhaps the spring session of the Legislature?

Ms Atkinson: I think, especially with the issue of new billing numbers, that when you consider that new graduates won't be coming out until probably in the fall,

it would make sense to put this issue off for further consultation until the spring.

Mrs Caplan: Especially since the minister— The Chair: Thank you very much, Mrs Caplan.

Mrs Caplan: I wanted to put a couple of things on the record.

The Chair: I'll excuse our guests first and then you can do that.

Thank you very much for coming this afternoon and being part of our process. We appreciate your interest. I hope you have a good day.

Mrs Caplan: The last point, just to finish my sentence, and I appreciate that, is that I think that part of the argument—

The Chair: Mrs Caplan—

Mrs Caplan: I will be putting something on the record.

The Chair: —are these questions for the ministry?

Mrs Caplan: Yes, I guess I could—let me put it in the form of a question.

The Chair: Wait a minute now. You've had your fair share of time here. I'm going to allow these people to excuse themselves.

Mrs Caplan: Yes, okay. Thank you.

The Chair: Thank you very much for coming.

Now if you have some questions to address to the ministry, then we'll—

Mrs Caplan: Right. Given the fact that the minister has said very clearly he has no intention whatever of implementing these restrictions in the legislation before summer, why would he object to severing this and allowing for more scrutiny, more time for public hearings on this component of the bill to be dealt with in the spring session of the legislature? There would still be time for that to be implemented, since he is not planning on having this till the summer anyway. That's question number one for the ministry.

I do have three points. Then I will—

The Chair: In the form of a question, or is this a statement?

Mrs Caplan: These are no longer questions, although there is one that is a question of the minister.

The Chair: Basically, we made an agreement that we would allot time fairly between witnesses. I guess if you're going to have five or 10 minutes here to make a statement, then I have to be fair. I would need to do that for everybody.

Mrs Caplan: That's fine.

The Chair: So is the situation that we're going to skip our lunch and allow statements to be made now through the dinner period?

Mrs Caplan: It's not going to take long, Mr Chair-

The Chair: Is that what you would like to do, Ms Lankin?

Ms Lankin: I am willing to hear what Elinor has to say. She has short comments. Let her put it on the record. This is crazy.

Mr Clement: That's fine.

Mrs Caplan: The first thing that I would request of the minister is the tabling of the amendments that we are hearing about so that they can be before the committee

and people will know what they are intending to do. Those groups that are coming before us will want to know what is contemplated. We've heard already that they have amendments. I'd ask that they be tabled tomorrow morning, please. That's number one.

Number two, I would ask the minister to designate someone to have carriage of this legislation. There is time for some short questions, and in fact there is a tradition in this Legislature, and I'd like to name the precedents. While there's no requirement in the standing orders, Mr Chairman, there are precedents, and I think the precedent that I would name is the Independent Health Facilities Act legislation, which I carried personally as minister and attended the committee hearings. When I could not be there personally, my parliamentary assistant sat in.

Whenever there has been significant legislation with policy implications, not only through the previous government, where they always had a parliamentary assistant-I remember both Mr Wessenger and Mr O'Connor, I believe, having carriage of those bills—but when I was there, either myself or my parliamentary assistant, and frankly, through the years prior to that when there was a Conservative government, traditionally whenever there was a major policy concern, we always had someone having official carriage of that legislation representing the minister, or in fact the minister himself or herself, at the committee to answer questions that could be answered at that moment.

There was also traditionally in this House the opportunity for members to put questions on the record. So I am requesting that the minister either come personally to have carriage of this bill—I understand it is complicated and I understand that he may not have confidence in anyone else answering questions at committee, and that's okay. I'm not taking a shot at the parliamentary assistant. If he feels that only he can do it, that's fine. If there is someone else whom he feels can be properly briefed to have carriage of the legislation, that's the request that I would make. I think certainly the members of the opposition would feel that is most appropriate and in the traditions of this Parliament. That's the second thing.

The third request I would have is of the clerk, and that is that I'd like an update on the waiting list for the committee. I'd like that for tomorrow morning if we could have that, please.

My last request: There was a discussion about having the Information and Privacy Commissioner reappear before the committee and, given the time of year and given the events that are going on with the committee and the number of presentations that are wanted to be made, I'd like to make a suggestion. If that is acceptable to the committee and to the minister, perhaps it would be helpful, Mr Chairman.

I would like to suggest that on the first day of clauseby-clause, which is January 22, the first half-hour, from 9 till 9:30, be available to the freedom of information commissioner to discuss his proposed amendments. Should the committee feel that's appropriate, I think that would be the appropriate time for him to come and answer questions and discuss his amendments. That's perfectly in order and I would so move that, if it requires a motion. If not, I'm happy to just have some consensus

from the committee that we request the freedom of information and protection of personal privacy commissioner to appear before the committee on the first day of clause-by-clause deliberations.

Thank you very much, Mr Chairman, for your

patience.

The Chair: As far as the motion goes, the motion is out of order because under the standing orders of the committee we're not allowed to sit before 10 o'clock, and then only to consider clause-by-clause.

Mr Clement: Amend it to say 10 to 10:30. I think

that's what you meant.

Mrs Caplan: What I'm-

Ms Lankin: Let him finish. There is a suggestion.

Mrs Caplan: Okay.

The Chair: Excuse me. We're not allowed to sit before 10 o'clock as a committee, and when we do sit at 10, we do have to consider clause-by-clause. My suggestion to Ms Lankin, who originally brought the idea up we're going to discuss it at a subcommittee meeting at 5 o'clock—was that we meet unofficially as a committee, with no Hansard, no support staff, at 9 o'clock that morning and allow the privacy commissioner an hour or two to brief us on issues of the bill.

Mrs Caplan: I think that would be very helpful. I have no difficulty with that whatever, as long as-

The Chair: So we'll ask-

Mrs Caplan: Well, there is no Hansard. I would assume the committee will be open for anyone who wishes to attend. This is not a closed session.

Mr Clement: No, it's not a closed session.

Mrs Caplan: That's fine.

The Chair: Because it really is basically not a committee meeting.

Mrs Caplan: That's fine. As long as it's an open meeting I have no problem with that.

The Chair: Is the waiting list you're looking for just for Toronto?

Mrs Caplan: Not only from Toronto, but requests from around the province as well. But if you have the Toronto number, I'd appreciate that.

The Chair: The clerk has advised me that by noon would be the earliest that would be available.

Mrs Caplan: Tomorrow by noon. That would be great.

The Chair: Anything further?

Mr Clement: Can I speak to Mrs Caplan's first two comments, please? With respect to the tabling of amendments, I think what we have made clear is that, just as the opposition parties are actively considering amendments, hearing the deputations, and perhaps you're getting some views as to what amendments you wish to propose, so too the government members of the committee are actively considering amendments that we would like to support based on the deputations, based on the presentations of those members of the public who wish to present before this committee.

I'm not aware of any amendments that are waiting to be presented. The time to present amendments is at the clause-by-clause portion of this committee, so I don't think there's anything to accommodate Mrs Caplan with

respect to that.

With respect to the role of Helen Johns at this committee, my understanding is that this is the committee on general government. This committee had referred to it Bill 26, which is commonly known as an omnibus bill. My understanding is that for omnibus bills there is usually no parliamentary assistant assigned unless it deals almost exclusively with one piece of the government.

Bill 26 deals with 14 different ministries, so there is no parliamentary assistant designated for either this committee or the subcommittee meeting in the other room. That's a bit of a technicality, but having said all that, I think we can accommodate Mrs Caplan or any member of this committee. If they have any requests of the ministry or minister, it or he can respond with alacrity, and I think we've shown that. The legislative assistant is in the room, as he has been for the past week, and we had a turnaround time of less than 48 hours for the original questions Mrs Caplan asked. I think that shows a willingness to work with the committee to answer any issues that come up.

Ms Lankin: I wasn't going to speak, but I have been provoked. Very simply, if the legislative assistant is responding with the kind of alacrity with which I've seen him responding to notes to Mrs Johns, perhaps he could take carriage of the bill and answer some of our ques-

Mr Clement: I think that was a snarky comment. Ms Lankin: That was sarcastic. I apologize. It is 5 o'clock.

On the first issue with respect to amendments, I just want to indicate that I don't think that is a satisfactory answer. When the minister was here on Monday, I did request of him that amendments he had contemplated and that were prepared be tabled, and he agreed to table them early. The reason for that, Mr Clement, is very simple. It's not a question of ongoing consideration and tabling according to the time lines. There is a responsibility on the part of the government to see an informed process of consideration of the bill, and if there are to be amendments in certain areas that the government is aware of, they should be tabled so that all participants and committee members don't waste time going over and over again issues that are going to be amended.

I point to the issue of what the minister committed to in terms of an amendment for the sunset review of the restructuring commission. If that comes in in that language, we'll still keep talking about it. If, however, as a result of what we've heard, it comes in in language that sunsets the commission and the special powers, as everyone understands his announcement, we could stop talking about that issue.

I really think your answer was not helpful to the process, and I would request again that the minister, as he indicated he would but has not yet done, would table amendments that are prepared and ready.

The Chair: Just for clarification, the only reference to amendments in the motion under which we are operating is that "all proposed amendments shall be filed with the clerk by 4 o'clock on January 25, 1996." That's the motion under which we are operating.

Mrs Caplan: Well, that's the last date on which amendments can be tabled, but there's no restriction that they can't be tabled before then.

The Chair: But that's the only reference to amend-

Mrs Caplan: That's right. Can I speak, Mr Chairman, very briefly? It is tradition that you have a date which is the last point at which amendments can be filed, but we did make the request of the minister, especially as policy statements were being made, that we have those amendments. Frankly, it clarifies the government's intent for the people coming. The other thing is that the government always has the right to change its mind and bring in further amendments, so it's not risking anything by tabling what it's thinking about now. Given the speed at which this legislation is going through, I think it would be helpful to the process. It's in that spirit that I am requesting proposed amendments as early as possible, and I would point out that the minister did commit to that.

Mr Clement: You said tomorrow, though.

Mrs Caplan: Well, I'd like them as soon as possible, tomorrow if you have them. He did the press release last week, for heaven's sake, and he should have that ready. But if it's not, Monday is fine. I would like it so people could have it and review it as quickly as possible. It would be nice if they could be here before these hearings end so that those who are appearing next week could have access to that via fax machines and so forth. That's the reason I'm requesting it.

The Chair: Thank you very much, Mrs Caplan. We stand recessed until 6 o'clock.

The committee recessed from 1710 to 1800.

ONTARIO MEDICAL ASSOCIATION. DISTRICT 11

The Chair: Good evening and welcome to our committee. Our first presenter this evening is-

Ms Kathy Bugeja: It's supposed to be Dr James Seligman, but he's not here. If you would like, I could read his text on his behalf.

The Chair: Do you expect him to be here?

Ms Bugeja: Yes, I do, but since he's an orthopaedic surgeon, sometimes he has emergencies that will delay him.

The Chair: Okay, he was going to read his text; no problem. If you want to come forward and read it, then if he comes in, you can-

Mrs Johns: Can you deepen your voice a little? Ms Bugeja: I guess. I think I can handle this.

The Chair: You see, you get to do it twice in two

nights, right?

Ms Bugeja: No, this isn't the same text. Honestly, last night was really my text from my heart, from my experience. It really was my chance at 15 minutes of fame. But tonight, as I had mentioned to you-

The Chair: Is that him before you there?

Ms Bugeja: That's him, thank God.

Dr James Seligman: I can't control the traffic. Sorry for my tardiness; I had a couple of weak patients.

The Chair: We're just very prompt here, that's all.

Dr Seligman: I know; it's a nice change.

The Chair: Welcome to our committee. We appreciate your attendance. You have a half-hour to use as you see fit. Questions, if you leave time for them, will begin with the government. So the floor is yours, sir.

Dr Seligman: Good evening. My name is Dr James Seligman. I'm an orthopaedic surgeon. I practise at Northwestern General Hospital in Toronto. I'm also the chairman of District 11 of the Ontario Medical Association, which represents approximately 7,000 physicians in Metropolitan Toronto.

I know you've had presentation from other representatives of the OMA and I don't intend to give you the same presentation, because the Toronto district concentrates its time and energy on pursuing issues unique to Metropolitan Toronto physicians. It is their interests and their

concerns that I am bringing to you today.

The OMA District 11 prides itself on being very involved in those health care initiatives that either affect or have an effect on health care of the citizens of Metropolitan Toronto. For example, over the last several years, OMA District 11 has actively participated in a number of projects undertaken by district health council, the annual hospital operating plan process, the maternal, newborn and child review, and most recently, the hospital restructuring project.

Our rationale for participating in these initiatives has always been very consistent: We are committed to improving access to and quality of health care in Metropolitan Toronto. We steadfastly pursue this commitment, because our concern and moral obligation as a profession is doing what is right for the patient. As providers working throughout all levels of the Metropolitan Toronto health care system, we're in an ideal position to assume

this advocacy role.

It is from this commitment to our patients and to a quality health care system for Metropolitan Toronto that we come to you today to present our comments on the health-related section of Bill 26, the Savings and Restructuring Act. In particular, I'd like to focus on three specific areas.

One is the minister's comments on hospital restructuring, which is an area in which we have secured some hard-won patient care gains at the MTDHC table and would like to retain in the provincial plan. Number two is the impact of Bill 26 on the average physician in practice. Number three is some alternative suggestions for meeting government's fiscal needs. We'll start off with

the hospital restructuring.

In his comments to the standing committee on Monday, Mr Wilson indicated that the Provincial Health Services Restructuring Commission will start with the Metropolitan Toronto District Health Council recommendations. Without going through an entire analysis of the report—it will be included as a supplementary to this presentation—I would like to highlight some of the things about this report and some of our concerns, because these issues are universal to any restructuring contemplated for Ontario.

To the MTDHC's credit, specific concerns raised by us during the two-year process have been acknowledged and incorporated in the restructuring report. These concerns focus on the need to ensure continuity of programs and services in a reconfigured acute-care sector through transfer of operating budgets and personnel providing that care between institutions.

From a physician standpoint, OMA District 11 is pleased the MTDHC report recognizes that (1) the total

demand for physicians' services in hospitals is not expected to decrease, given the expected increase in acute-care demand; (2) physicians currently practising in Metro Toronto hospitals must be able to move with their work and must have preferential access to positions within the restructured hospital system; (3) as physicians move between facilities, mechanisms to ensure equitable access to hospital resources by all physicians, new and continuing, must be developed; (4) as physician movement will occur across the city, consideration should be given to developing open and standardized credentialling and appointment procedures for both the teaching and community hospital systems; and, lastly, labour adjustments and support concepts applicable to unionized labour, such as retraining, posting and early retirement. could apply to physicians as well.

Recognizing that physicians are not hospital employees, however, the MTDHC recommendations only call for the restructuring authority to establish a process which provides for the involvement of local hospital boards, physicians and the University of Toronto in developing equitable mechanisms to address crosshospital issues such as the movement, credentialling, selection and appointment of physicians. Given that the responsibility of the restructuring authority stops short of ensuring these cross-hospital issues will be implemented. however, there is no guarantee that this will actually happen. Critical medical care may not be available, therefore, to individuals affected by restructuring. Moreover, it is unclear whether the fundamental principle of individuals being able to retain the provider and mode of

treatment of their choice will still prevail.

In the interest of ensuring continuity of care in a reconfigured acute-care sector, the MTDHC or government must guarantee the ability of physicians to provide care to their patients. Consequently, District 11 recommends a strengthening of the MTDHC recommendations as they pertain to physician movement, credentialling, selection and appointments across the system. To that end, OMA District 11 is prepared to work with the relevant stakeholders to ensure these concepts will be realized.

How are these points relevant to our discussion on Bill 26? If you take these points related to physician movement across the system as a package, the issue of physician billing numbers goes beyond a geographically defined quota system. The issue goes back to its fundamental base. Each number is a physician providing patient care. Patient care cannot be compromised for financial expediency, nor can it be tied to a specific hospital, for this risks losing the ability to service the need altogether.

If I happen to be the best orthopaedic surgeon in Toronto and my hospital closes, under Bill 26 my services may not be available, period, unless some other hospital grants me privileges. Currently, hospital privileges are not easy to come by. Consequently, under Bill 26, I and the patients I serve could be totally locked out of the system. This is why we at District 11 have emphasized the necessity of providers being able to move across a reconfigured health care system. Patient care cannot be compromised.

While the MTDHC report reinforces continuity of care within the institutional sector, neither it nor Bill 26 addresses how the community-based sector will be adequately prepared to handle the vast increase in responsibility that will be offloaded from the hospital sector. As they currently stand, the MTDHC restructuring recommendations either transfer individuals sooner or reroute them altogether from the hospital system into the community without knowing how their care will be handled. The MTDHC report has assumed the primary care sector, which is far less structured than the hospital sector, will pick up that burden of care, but the provision of 24-hour, seven-day-a-week access goes beyond a simple extension of office hours. All the elements readily on hand within hospitals—for example, diagnostic capabilities, shared information networks, and timely specialist backup support—must be available to primary care providers in the community if this sector is expected to provide this level of care without compromising patient and informal caregiver health.

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If the MTDHC or the provincial government arbitrarily and unilaterally decides to offload a significant amount of hospital-based care into a community sector that is currently unprepared and ill-equipped to handle that care, then the MTDHC or government must assume responsibility for preparing, monitoring and modifying this sector. Developing, funding and reinforcing an entire sector is not the responsibility of the providers delivering the care. Primary care providers are instrumental, however, in identifying the prerequisites necessary to deliver a greater mix and number of services in the community. To that end, OMA District 11 is prepared to participate with government and other key stakeholders to address this major gap in the MTDHC's or government's restructuring plans.

I want to emphasize our desire to stay in the process. We want to be at the table of the hospital restructuring commission. We feel we've earned that right; we've secured the principles that facilitate provider movement. It's time to turn the principles into reality, and we want

to be there to make it happen.

I raise these points today because the physicians of Metropolitan Toronto are strongly committed to preserving and enhancing health care for Toronto. It's not just an issue of jobs or vested interests, as Mr Wilson's comments seem to suggest. It's about patients and ensuring the ability of all providers to provide that care across the system. Some of the providers are hospital-based and some of them are not. This reflects the reality of health care today. The continuum of care goes beyond hospital walls. These are principles that have been advanced by government. How could Bill 26 be so inconsistent, then, as to restrict physician care according to geography or hospital privileges? The inconsistency and illogic of some of the aspects of Bill 26 gets into the whole realm of what it's going to be like for the average doctor to provide care.

My comments on this issue are not unique to me. In talking to my members, they cannot believe the depth and breadth of the total control proposed by this bill. Earlier today I was speaking to a large group, and they're shocked by what's in front of them.

In its quest to address the financial crisis of this province, Bill 26 is seeking to create a viable society by strict regimentation of national and individual lives. Conflicting interests would be adjusted by total subordination to service of the state. If that sounds like a textbook definition of totalitarian dictatorship to you, guess what? It is. I got it from the dictionary. The scary thing is, it's bang on for what is facing the profession with this bill.

As a practising physician who has spent years training for what I do in providing care to my patients that is both thorough and responsible, with this bill I don't know what it's going to be like to practise any more; what it's going to be like when I can't order a test. If I order a test, I'm not sure if the government's going to charge me for the test. If I don't order the test, I have to protect myself from the patient who decides to sue me because they felt I should have ordered the test. Thus I end up in a catch-22 situation. How does the government propose to protect me from this situation, given the current medical-legal environment that places no limitations on the ability of patients to sue the medical profession? I have a compelling duty to provide lifesaving service, but now government is either second-guessing me or telling me it's not going to pay for the services at all.

So what are my options? I'm not sure. Many of my colleagues don't know. Some of us are not going to do or order any tests. This isn't job action; it's simply paralysis resulting from massive fear of reprisal. Others will do the test, do their job to the best of their ability, maybe even work for free, but how fair is this in western society?

To put it into dollars and cents, as an orthopaedic surgeon I get about 50 bucks to do a consult. I'm not going to order a CT scan on a patient when I'm going to possibly be billed \$500 later by a government bureaucrat who knows nothing about the situation because they feel the test wasn't needed. Is that going to be based upon the fact that the test was reported as normal and therefore not needed?

I have some backup of this in the DHC report. They've decided that over 50% of the patients who show up to emergency departments don't have to be there. Why don't they have to be there? Because they've done their analysis on the walk-out diagnosis. They haven't done the analysis on the walk-in diagnosis. If a 40-year-old male walks into an emergency department with chest pain, he's supposed to be in an emergency department. After the fact, after the ECG, the blood tests etc, they decide: "You know what? It's only chest wall pain. It's not significant. You can go home." Well, the diagnosis that's put down is chest wall pain, and from the DHC report, that's an unnecessary emergency department visit. So if I want to extrapolate that, a government bureaucrat is going to say: "Well, the test is reported as normal. That test didn't have to be done." It puts us in a very difficult position and, to tell you the truth, I won't order tests like that. I want to get government approval first, and that's what you're going to be doing to the health care system.

It's totally unfair that the public retains its legal and individual rights and the profession is totally stripped of theirs. For government to exercise unilateral control over what I do, how I do it, when, how, and then determine

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whether I'm going to get paid or, worse yet, pay back the system beyond the service that I delivered is totally absurd. You can do all this and I have no legal recourse to protest or appeal. What did I and all my colleagues do to deserve this treatment? This is not democracy; this is a dictatorship.

You can't play the game without knowing the rules. If you're not going to offer guidance to physicians, most of them will play it safe to the extreme: no tests. Patient care will be compromised. As I emphasized before, this isn't a threat and it isn't a job action. It's simply paralysis resulting from massive government intrusion on our

ability to provide care for our patients.

I appreciate the very difficult financial situation this government is trying to correct, but you can't correct the woes of the health care system by solely attacking the providers. As an orthopaedic surgeon, I can see anywhere from 60 to 100 patients in my fracture clinic on Mondays. And you know what? I don't ask any of them to come in. They're all sent in from the emergency department and everywhere else, and I can tell them not to come back and they keep coming back. So don't tell me that the physicians are generating business. It comes on its own. We're providing services that are needed.

Use of the health care system is comprised of two parts: the user and the provider. Yes, we provide care to the individual, but we don't know how many times the patient has sought the same type of care from someone else. There are no limitations on access to care, nor is there any ability to track a patient's movement. If you want to control health care utilization, you have to be able to track the patient. Patient rostering is an idea that has been put forth: not capitation, but strictly rostering that says to the individual, "There's a primary care doctor you have chosen to provide your care directly, or through whom you will access other services within the system." That's the only way for the government to get some type of control on how frequently the system is accessed by individuals.

This assumes, of course, that the information system's capability exists to be able to detect those individuals who stray from this arrangement. Very simply, you're rostered, you pick your family doctor, and that's who you go to. If you want to go to a walk-in clinic or another doctor, you have to pay for it. The system can't afford for people to go to as many doctors as they want.

As well, when you go to all these different doctors, all these different doctors end up ordering multiple tests and repeating things because nobody knows what anybody else has done. Half the time we don't even know that they've seen a dozen other doctors, and if they do that, that's fine as long as they're willing to pay for it. We are now at the point where we realize OHIP cannot provide everything to everyone, and it certainly cannot provide the identical service, such as double-doctoring, to individuals who don't like the initial or second or third opinion they've heard.

Doesn't it make sense to start defining what is available and essential to all individuals under OHIP and at the same time develop a mechanism that will allow individuals to access care beyond that which is provided under OHIP should they so choose? The precedent

already exists in the government's long-term-care reforms and in what we see with respect to home care services. These precedents exist because they take the strain off the public system while still providing people the service they need. Why not extrapolate this experience to the larger health care system?

And while we're on the subject, it's time third parties paid their fair share of health care utilization, similar to what we see with the Workers' Compensation Board. There's no reason why people involved in motor vehicle accidents, people involved with suing third parties, do not have a similar type of numbers situation where the government directly collects and these people are not drawing more and more on the health care system.

Finally, I appreciate the government's desire to staff underserviced areas in the province, but I don't believe you can force anyone to go where they either don't want to go or are ill prepared to provide that service. I believe in taking an incentive approach to addressing the physician distribution issue. Right now we have financial incentives for new doctors to practise up north, but maybe we should start earlier in the process. Maybe there's something we can learn from other bodies in the province that fund their potential candidates' education. Why can't we sponsor physicians in medical school who will go up to the north and practise? These are the types of physicians who will be committed to staying up north. I know this isn't an immediate solution but I still think it's one to consider. You will not force new doctors to go up into northern Ontario if they don't want to. What they will do is go south of the border. Legislation like this is

I've spent the last 15 minutes or so going through some of the issues that are important to Toronto physicians. These aren't all our points but they mean a lot to us. We intend to submit a further commentary before your final submission. If there are any questions, I'd be happy to answer them.

The Chair: Thank you, doctor. We look forward to your final submission. We've left about two and a half

minutes per party, beginning with Mr Clement.

Mr Clement: Thank you very much for your submission. Certainly it was well thought out and you've given us a lot to think about, so I thank you for that.

The bulk of your remarks was about what was medically necessary and the oversight and review that you feel is in the new bill. I'll be honest with you. I'm having trouble following this argument by physicians, because I read the new bill, the new sections, and I read the old sections, and the new section talks about a general manager refusing to pay if there's "reasonable grounds." There's a test in there, reasonable grounds. Even if you think they are acting unreasonably in a situation, you can request, under section 18.1, that the decision of the general manager be reviewed by the Medical Eligibility Committee or the Medical Review Committee. That's what we're proposing.

Then I read the old legislation, which seems to be as, shall I say, draconian as the new legislation. If you're talking about balance of draconian laws, the old legislation was perhaps even broader: "all or part of such ser-

vices were not medically necessary," as decided by the general manager. Now, the only difference, and I acknowledge that, is that he has to go through the MRC, so there's that one step, but you have under the new legislation an appeal to the MRC. Could you just explain to me if I'm missing something here?

Dr Seligman: A lot of it seems to be the way things

are being presented.

Mr Clement: The way things—

Dr Seligman: Are being presented. This legislation comes through as a sledgehammer. Throughout the legislation, consistently, I have no right of appeal, I have no right to sue for any potential losses. I don't have the exact legislation in front of me right now, but very consistent in this is that we have no rights; we cannot appeal anything. As a physician, then, I start saying you're allowed to, under your thing, take away my hospital privileges; I can't appeal. You're allowed to come into my office, go through my hospital charts for no reason that I have to know about. You're allowed to, by calling my office an independent health facility, then close it; I have no right of appeal.

This whole thing with respect to the tests becomes very simple. If you want to set up guidelines or rules for the way tests are ordered, that's a different story. If you want to say, for example, "We will limit these tests to this level of specialists and they're the only ones who can order them. We don't want all the family doctors ordering them," that's different. You're now setting up exact rules so that as a doctor I don't have to worry, "Should I order a test?" No, I'm not allowed to. So if I feel a test is needed, I will have to refer the patient on because they

have a more significant problem.

But I won't be in the situation—for example, let's say you're a neurologist right now. If you come into a neurologist's office with a headache, that neurologist has to order a CT scan of your head for no other reason than medical-legal, because anywhere down the road he could be sued. Now the manager of OHIP says: "Look, he ordered all these normal CT scans of heads. This is ridiculous. We're going to charge him for all of those." You can't have it both ways.

Mr Clement: I guess I'm saying that was under the

old act too.

The Chair: Sorry, Mr Clement. We have to go on to Mr Colle.

Mr Colle: I guess the most striking thing you're saying to us in all your concerns is that there's a very strong, heavy-handed approach, an authoritarian approach, a dictatorial approach. I don't know: How can you explain yourself, explain the frustration of doctors in terms of getting that message across to the government that this is what the message is, this is what Bill 26 is saying, and how can you explain in very few words that this is what you're objecting to, is just the sledgehammer approach to medicine?

Dr Seligman: I would expect to be treated like any other citizen in this country, and that is to have rights. When I see legislation come in place that does not allow me any right of appeal, I'm sorry, that is not democracy under any definition; that is a dictatorship. Because you've got a general manager of OHIP who now controls

me. A matter worse: Now you're going to put me into a hospital that I have to be tied to, so that CEO controls me. He can fire me at any time; I can't appeal.

Where else in society is anything like that? Nowhere. Yes, the government has said, "We're not going to do all these things." I'm sorry. If it's written down in law, it's been put there for a reason. Yes, it may not be used now, but it's there. As far as I'm concerned, we are in a democracy and I would expect democratic rules. We also have a Constitution. I'd like to know where it is constitutional for the government to force people to be moved from here to here, where it is constitutional to not have a right of appeal. This is ridiculous.

What do I think? I can tell you in a short sentence. I have never in my life ever dreamed—and this is not a threat, okay?—of moving down to the States. But you know what? I'm actively looking into it now, and I'm probably one of the last people anybody would expect, but I'm actively looking into it. It's because of this

government.

It goes a step further, unfortunately. I don't want to slam every government, but we've gone through the Liberal government and the NDP government, where we felt things weren't great. I am a Conservative: hard, big-C, okay? I can guarantee you that with what is going on, I would never in my life ever vote for a Conservative government in this province. I have never voted anything but Conservative. This is fascism. It's another F word. It's a little longer than the four letters. But this is ridiculous. There's a point to which you push things. This has gone too far.

Ms Lankin: Just so you know what that's about, I have my name here because at this time of night the Chair seems to forget it, so I point it out on the other side.

In response to what Mr Clement said, I want to put my views on the record on this. He seemed to suggest to you that the old section 18 in the Health Insurance Act was broader than the new one. Quite frankly, under the old one, the general manager could decide that he had reasonable grounds to doubt something and could refer it to the Medical Review Committee, which is a peer review. Now he takes a decision and you have to appeal it.

But what's insidious about this in terms of what's in the language: Before, if they thought the services weren't rendered—that's still there. If they thought they weren't medically necessary—they've added the words "or therapeutically" necessary. You don't add words unless they have some import. So what does it mean? Are the bureaucrats going to decide whether it was therapeutically necessary? Then if they thought they weren't provided in accordance with professional standards, which was in the old one, or if they were misrepresented—that was in the old one, except now it adds the words "intentionally or inadvertently"—it could be taken away, and then "under any other circumstance as prescribed in regulation."

So this is very different and it is much larger, and it is problematic in the way in which the legislation is framed. I continue to say I don't disagree with what the government's attempting to achieve in certain areas. The way this is structured is a bureaucratic nightmare. Lord knows,

we did certain things as a government that the physicians didn't like as well. But this is the very thing that Jim Wilson would have stood and railed against us on as critic.

You've said that you're going to provide us with a more in-depth analysis in January. The things you've raised either require deletion from the act or huge amendments to make them satisfactory. Do you have time to prepare the in-detail recommendations of amendments for us?

Dr Seligman: We can try.

Ms Lankin: I'm asking it because I'm presuming it's going to be difficult to do. I'm feeling the sense of frustration of groups that want to do an analysis and give us amendments and don't have time. I'm afraid we're not going to have the best information from the public in front us when we come to the final days of this.

Dr Seligman: I can tell you we will be doing our best to. This whole thing has been unbelievably upsetting as a profession, because-it's funny, and I can't believe I'm saying this—we look back to the NDP and we wish those days were back.

Ms Lankin: And the Chair cuts you off at that point. Did you notice? Now, is this an unbiased Chair or what?

Dr Seligman: I never thought in my life I would ever say something like that.

The Chair: On that note, thank you very much for taking the time to be with us tonight. We appreciate your submission and we look forward to the additional information you're going to forward to us.

COMMUNITY RESOURCE CENTRE OF SCARBOROUGH

The Chair: Our next group is the Community Resource Centre of Scarborough, represented by Bob Frankford, who's a former member of this august organization, Douglas Heath, Mike Boychyn and Evans Emyolu. Good evening, gentlemen. If you would just introduce yourselves for Hansard, so they know who each one of you is. We appreciate your attendance here tonight. You have half an hour to use as you see fit. Any time you allow for questions will begin with the Liberals. The floor is yours.

Dr Bob Frankford: I'm Dr Bob Frankford.

Mr Douglas Heath: I'm Douglas Heath. I'm a former chair of the Community Resource Centre of Scarborough.

Dr Evans Emyolu: I'm Dr Evans Emyolu. I'm also a member of the Community Resource Centre of Scarborough.

Mr Mike Boychyn: I'm Mike Boychyn.

Mr Heath: I apologize. We're reading from our brief, but we've had little enough time to prepare it, let alone

practise a proper presentation. So here goes.

Mr Chair, honourable members, members of the public, the Community Resource Centre of Scarborough is a voluntary, non-profit organization that has served citizens' groups since 1991 by providing workspace, information and resources to encourage citizen participation, particularly in the areas of social justice and the environment.

We are concerned with many aspects of this bill, not just the health aspects, but we've been scheduled here.

Due to the time limits we will only be focusing on a few, such as the fashion in which this bill was introduced and will be discussed, and how it affects our municipality and our health care system.

Bill 26 was badly flawed from the start. It was introduced quietly, behind the backs of Ontarians, under cover of the November 29 economic statement, while opposition members and the media were in the lockup for that statement and unable to attend the House. It is a very extensive bill which alters 44 provincial statutes and creates three others, covering virtually every ministry. We, like other groups and individuals, have found it almost impossible to come to terms with everything that is in this bill in the time which the government has given, an amount of time which is, by far, more than this government originally intended to give Ontarians to comment on this bill.

Had the government had its way, this bill would already be passed by now, without so much as a moment of open public debate. We suspect this has been purposeful, an attempt by the government to implement widereaching changes behind the public's back while we focused on other things, like the Christmas holiday. This bill may not be against the letter of the rules of order of the Legislative Assembly, as the Speaker has determined, but it is certainly against their democratic spirit and intent.

The Community Resource Centre of Scarborough believes that it is impossible to fully debate the merits of Bill 26 in the way it has been presented. There are too many changes in too many different areas to discuss in the time we've been given, changes that will affect everyone in the area we serve, the city of Scarborough,

and everyone in the province.

To deal with this, we recommend that Bill 26 be broken up into several bills, one concerning changes to medicare and the Ontario drug benefit plan; one concerning changes to public sector collective bargaining, arbitration and pay equity; one dealing with changes to the Municipal Act, conservation authorities and matters concerning transportation; one implementing previous NDP government budgets and giving the Ontario government borrowing authority; and finally, a bill containing the other provisions which don't fit anywhere else. All of these bills should receive a full debate in the House and full public hearings, as bills with the potential to drastically affect people's lives really deserve.

The city of Scarborough isn't in an unusual situation among municipalities in Ontario. It has a fragile economy, an eroding tax base and an aging population. We already have been hurt by government policies, having had tens of millions of dollars taken away from our schools and hospitals and from the very poorest of our citizens. We deal in the centre with these people every day, and we know that Bill 26 adds insult to injury for all

residents of our city.

The effects of this bill on the city of Scarborough are many. The government in this bill has given municipalities like our own the authority to charge citizens twice, once through their taxes and again through user fees, for everything the government does. Parents may have to pay an annual fee so that their children are free to read in

public libraries, and enjoying the beauty and recreational possibilities in our extensive system of public parks could be subject to an admission fee, and even essential services like police and fire services could be subject to a fee, a cruel indignity to victims of crime or of fire.

We pay now for these services through our municipal and provincial taxes, which at least have some connection with our ability as taxpayers to pay for them. User fees don't have that connection. Rich or poor, we will all pay the same for the services we use regardless of our need for the service or our ability to pay for it. This bill also gives authority for municipalities to impose a poll tax, with the same but much greater effect—and, incidentally, responsible for the political end of another Conservative, in Britain, with similar policies to this government.

We agree with the need to impose user fees on garbage collection and the use of water, sewers and electricity in order to encourage waste reduction and conservation. The possibility that this bill may allow municipalities to impose a fuel tax is welcome to us. However, the government has cut the Green Communities initiative which encouraged these kinds of efforts to help people finance the transition to efficiency and lessen their exposure to such taxes and charges. Poor people, without the money to buy new, efficient lighting, insulate pipes, fix leaks and use low-flow fixtures, will pay these user fees but not be able to become efficient and avoid paying them.

1840 The powers this bill gives to the provincial cabinet and to our own municipal government in relation to things with can be done without public input of any kind are quite astounding. Privatization of the utilities the people of Scarborough own together could be done without our permission, as could privatization of garbage collection or even as critical a service as public transit or fire protection. Road and transit grants would be up to the discretion of the minister to give out. We hope the minister will use this new power to fund transit improvements, but quite frankly, given the government's record on transportation so far, we aren't very confident in this. Provincial arbitrators will be given the power under this bill to virtually be able to dictate what services our municipality will offer and what services it won't.

On health care, we're very concerned with the power given the Minister of Health to close or restructure hospitals arbitrarily, without reference to the medical needs of the community. It is very suspicious to us that the minister and cabinet are also protected from legal liability due to cuts in funding or restructuring the health care system when the government is also pulling out of funding malpractice insurance for doctors. We're afraid that doctors could be left on the line, being sued for decisions the government forced them to make.

We're horrified with the possibility that our medical records would no longer belong to us and our physician and could be examined at any moment by the minister or his chosen agents. This is an unsupportable invasion of privacy. The minister could also say, without reference to medical expertise, whether or not medical procedures now paid for under the Ontario health insurance plan are necessary and if they can be funded. We concur with the government that changes to serve underserviced areas and

communities are needed, but are uneasy about the approach that is being used.

Introducing copayments and eliminating the regulation of drugs is an insane prescription for making drugs inaccessible to those who need them, primarily seniors, as well as endangering the future financial viability of the plan. Where there is no competition for necessary drugs, as there is in cases where there is patent protection, drug costs need to be regulated to protect consumers and to protect the drug plan from being bankrupted. If we have no control over what drug companies charge the province or individual consumers for their drugs, the drug plan could easily have costs that spiral out of control. Welfare recipients who have had their cheques cut by 20% are in no position to be paying these drug costs. It may well eventually come down to a parent or someone else having to choose between buying the drugs they or their children need and paying the rent or buying food. This is completely unacceptable.

I will now hand things over to Dr Bob Frankford, who will speak a bit more about the health effects of this plan.

Dr Frankford: I've been working as a physician at Seaton House. I'm becoming very familiar with the needs of the most needy population of people, who would be homeless if an institution like Seaton House didn't exist.

I'm totally bewildered about the implications of any sort of a user fee on my clients there. Every day I see high health needs. I write frequent prescriptions. I stand by my medical judgement on what is needed. I try to write short prescriptions, partly because of the real risk of diversion of drugs, so I just have no idea what I would be doing if there was a user fee, however minimal, because I have no doubt this would add up to an impossible amount to many of the clients I see there.

I suppose one might say that, like so many other things, they would be supported as a last resort by the municipality of Metropolitan Toronto. That would be yet another downloading of an essential cost to the municipality. I fail to see how that benefits, particularly in the face of what I regard as the universal right established by the Canada Health Act to medical care, which to me has to include necessary prescription drugs.

That's all I'd like to say at this point, but we'd like to welcome questions from the members of the committee.

The Chair: Thank you. We have about five minutes per party left, beginning with the Liberals. Mr Colle.

Mr Mike Colle (Oakwood): Thank you very much for the presentation. One of the themes in your presentation is the unfairness of user fees, and I'm just wondering, for instance, in Seaton House which is a hostel for, as you said, people who are most vulnerable, especially at this time of the year, what would happen if all of a sudden—as you know, this government is proposing to enact a \$2 user fee, which is part of Bill 26. What's going to happen to those men in Seaton House when they have to pay \$2 for prescribed drugs?

Dr Frankford: They just don't have it. You would be chasing an uncollectible bill. I suppose you could go after the pharmacist and essentially cut his fee if he was willing to go along with it, or one would have to go to Metro Toronto and say that this is something you have to add to your budget, although I don't think they're advised

to do that.

To me, we have a medicare system, a Canada Health Act, and I'm just totally perplexed by any suggestion that necessary drugs or the treatment that I prescribe is not free. If I see someone in a diabetic coma, do I check their financial resources first? Maybe it's acceptable south of the border, but this is not what I want in this country.

Mr Colle: I guess the government has said, "It's only two bucks." I know the Minister of Health said, "I talked to a lot of seniors and they thought it was a great idea for this \$2 user fee." Is it quite common that these men, for

instance, would not have \$2 in their pocket?

Dr Frankford: These men don't have anything. They're living there as a substitute for welfare. They get a personal needs allowance of three dollars and something per day. That's it. There is no cash.

Mr Colle: I think this other gentleman would like to

comment.

Dr Emyolu: What I wanted to add is that it might be important for the government to tell the public the distribution and redistribution impact of this bill on the ethnic community, those of them that are on welfare. Everybody knows what they are getting, if you put it as single. So we want, in my own community, the Nigerian Canadian Association wants to know the distributional and redistributional aspects of this bill.

Mr Colle: In other words, you're not aware of any impact study the government has done as a result of all these changes that this bill is going to bring about and the effect it's going to have on vulnerable groups and groups

that certainly need support in Scarborough.

Dr Emyolu: Exactly.

Mr Heath: A quick comment. I don't quite see the economic logic about charging a copayment or user fee on drugs. The idea behind it, I assume, is to lower the use of unnecessary drugs by charging a fee. Well, guess what? Consumers do not choose the drugs they use. They are chosen for them by their doctors. We can't go out and choose which elements of a prescription we choose to give ourselves or ignore because we don't want to pay the user fee.

Mr Bartolucci: I'd like you to react to this quote from the Minister of Health. "The health care system will not be reformed by publishing invitations to special interests for their input, adding up their requests and greasing their wheels with the squeakiest getting the most grease." What was your gut reaction to that?

Mr Heath: Well, it certainly won't be reformed by autocratic fiat from the minister either. No, we have to consult people in the health community who know the health care system and know what they're dealing with

before going ahead with these changes.

Mr Bartolucci: Do you not see that the only alternative is to extend these hearings?

The Chair: Thank you, Mr Bartolucci. Ms Lankin. 1850

Ms Lankin: In your presentation I think that you did a very good job of talking about this bill in terms of its effect on the determinants of health in the broadest sense, and you touched on some of the other areas. I want to take it on from there and talk about another sort of vision set of values or whatever and that's with respect to medicare, the Canada Health Act and universality. I'm

not sure if you're aware of this provision, but let me put this to you and see how you respond.

Under the Health Care Accessibility Act there is an amendment proposed which would allow the Lieutenant Governor, by regulation, to deem that certain insured services performed in a hospital could be charged for in addition to the insured services recovered from OHIP. When I raised this earlier, I was told by one of the government members, Ms Ecker, when she responded to the panellists: "Don't worry. We support the Canada Health Act and there isn't a problem here."

I've been unable to determine what the goal of this is, because currently my understanding is, from the research we've done under the Canada Health Act, that if a hospital did charge a user fee for an insured service prescribed under regulation under this legislation, the federal government would reduce transfers to the province by a corresponding amount. They have a clawback provision. Now what provincial government would do that? It wouldn't make sense.

But then last week we heard the Finance minister musing about the need to have flexibility under the Canada Health Act. As we look at this and several other sections, we're starting to wonder whether there are amendments in this legislation that are there in the event of a loosening of the Canada Health Act in the future, if they are successful along with the Alberta government etc.

The background paper that the government gives us says, "This is to clarify that you can't charge user fees for insured services in a hospital." It wasn't even in the act before. There was nothing to clarify on that. Why would it be set out that it is to allow, by regulation, for it to be charged and a separate clause that says, "You can charge different amounts in different classes of hospitals by regulation"?

I don't believe the background note on this. Have you looked at that or do you have any general comments on the issue of accessibility, universality and the Canada Health Act vis-à-vis Bill 26?

Dr Frankford: It would require a lot of time to work through all the things you've said, but I'm a very strong believer in universality. I think my main regret really is that the Canada Health Act is not universal enough. I think it gives too much discretion. I think it would be quite possible to set much broader national goals at the same time as maintaining the provincial role in the running of health care.

I think the idea of insured services which are medically necessary and so on is not in fact as big a problem as is made out. I think that the federal Reform Party's proposal that we should confer on which things are medically necessary as a sort of Oregon approach is a nightmare. I think even from their political self-interest, it's a very unwise move because it sounds attractive but it's an absolute swamp as—

Ms Lankin: As we found out.

Dr Frankford: You know, the idea, "Let's eliminate annual health exams." It sounds easy, but no government can easily do that, although they keep on trying.

If I can go back to Mr Bartolucci's question about the extent of public hearings, I would very much support the idea of having separate health hearings because it is such

an involved complex field and I don't think that it's special interest. I think it's just the many, many stakeholders who deserve to have a chance to bring their positions forward. I think that we can have some sort of comprehensive model, but we cannot do it under the time pressure that this bill holds us to.

Mrs Johns: Thank you for coming. It's an interesting presentation and I appreciate your comments. I want to go back to the topics of drugs that they were talking about earlier. I have a quote from Thomas Walkom in November 1993 which says, "Rae and NDP backbenchers such as Dr Bob Frankford of Scarborough East defended the idea of targeting money towards those most in need."

At that point I want to draw to your attention that under this bill and our further discussions from the minister, we have been able to target 140,000 people who have never had health care benefits as a result of this money and being able to decrease the limits on the Trillium drug plan. I'm sure from that standpoint those 140,000 individuals are a very important part to you.

You said something in your statement about drug regulation, and I just want to say that the cash market is deregulated, but we believe that government will have greater flexibility in negotiating the best prices for the ODB and therefore once again will help the poor and the

taxpayers of Ontario.

My question goes on to that. During your time in government, you delisted drugs from the formulary twice. You delisted 130 different drugs to achieve \$20 million in savings, while in September 1993 you delisted another 110 drugs, for about \$37 million in savings. Delisting is a 100% user fee, as you well know, making seniors pay the full cost of the medication. Do you agree that cost-sharing is better than delisting?

Dr Frankford: I would like to take a very illness-centred approach and think in terms of medical necessity. We should have an essential drug list, and you could be looking at the WHO and bodies like that which do have an essential drug list, which I think should be free.

As I said before, it doesn't make sense to have free medicare as some wonderful national achievement if what I'm prescribing as treatment is not free. I'm perfectly willing to accept limits on that. One can look at other countries—I forget, is it Italy?—there are some countries where thousands of drugs are available and it's a real mess in every way, both fiscally and clinically. So I'm very prepared to go for a quite limited list, and I'm also quite prepared not to expect change of that scale overnight, but I think it should be an objective to make a more comprehensive free health care system.

We have not even got into the other things which are not covered. I am perplexed by the things I would like to prescribe which are not there. Is dentistry covered? Well, a little bit here and there. Physiotherapy? Some is, some isn't. I don't think this makes sense, to have multiple-tier

systems by default.

I hope I was at least pushing the government of which I was a part in the direction to say, "Let's move towards more universality, because it's actually cheaper." Gee whiz, isn't that what we're all about? It would actually reduce the deficit if you look at models from other countries.

I've written to our friend Marcel Massé, the federal Minister of Intergovernmental Affairs, who in the early days spoke out of turn, but I think he spoke correctly, and I'm on the record as having complimented this, saying, "Let's look at European models because they're cheaper, and we would reduce costs." He's absolutely right, or he was right. but he's not supposed to be right and he's being told to be quiet about that. I'm very willing to go for a system of greater universality.

Mrs Johns: You'd prefer to have drugs delisted then. The Chair: Thank you, gentlemen. We appreciate your attending our committee this evening and we appreciate your presentation.

It would appear that our next presenter, Women's Health in Women's Hands, isn't here. I guess we'll have

a short recess, but don't go too far away.

Ms Lankin: Could we get an update on what's happening for the evening? My schedule stops at 7.

Clerk of the Committee: I handed out another agenda. It's somewhere on your desk.

The committee recessed from 1900 to 1913.

LARRY EDWARDS

The Chair: Our 7 o'clock group is not going to make it. Fortunately, Dr Larry Edwards has come a few minutes early, so we're going to get him in and out a little quicker than he thought. Dr Edwards, welcome to our committee. You have half an hour to use as you see fit. Any time you leave for questions would begin with Ms Lankin from the New Democratic Party.

Dr Larry Edwards: I am a specialist in internal medicine and gastroenterology practising in the northwest part of the city. I graduated from the University of Toronto in 1961.

About five years ago I was in Central America doing medical clinics. I had my eldest daughter with me and she was very impressed with the medical care we were doing there and she told me she wanted to become a doctor. I advised her not to. I said: "Lara, practising medicine in Ontario is not the same as practising medicine here. There's a lot of government interference in the practise of medicine in Ontario."

Well, nothing has changed. There has been ongoing government interference, in the perception of the doctors and the patients, and there continues to be. In this proposed Bill 26, the implications for the medical profession are horrendous, absolutely horrendous. Any seriously thinking doctor is totally aghast at what is being

proposed here.

We are to be at the entire mercy of our CEO or hospital administrator. If he decides we're off staff, that's it; we have no recourse. If the Minister of Health or the director of OHIP decides we're not to have a billing number, we have no recourse. We are apparently to be told where and when to practise. Furthermore, we are to be told that if we order some tests and a subsequent review of our records shows that these were not "medically necessary," we are to reimburse the system for the cost of these tests.

I was asked 10 days ago by one of my longest-standing and best friends, with whom I went through high

school and medical school, who came to one of my fund-raisers when I was a PC candidate in this election, "Larry, when you ran in the election, did you have any idea that any of this was being proposed?" I said no, that what was being proposed and what I knew was that the government was going to protect the health care envelope at the present level of spending and not cut any services. In the six months since the election, things have apparently changed. I have no idea how or why, or why the minister is seeking such powers, like Draco in the seventh century BC, and everybody calls them draconian because they are. I have no idea.

I have a friend, Dr David Huggins, the chief OMA negotiator, who says that the proposal vis-à-vis insisting that doctors go to underserviced areas—well, they want trained doctors for these underserviced areas. They have a program in Sudbury and at Lakehead—I guess it's called Thunder Bay now—where they have turned out about 25 GPs a year in each of these places in the last two or three years, and they have a 70% rate for these people staying in underserviced areas. David Huggins feels this is the way to go, and through incentives it should be done, but not through restricted billing numbers.

Getting back to Central America, in Honduras and I believe in Ecuador also, where I've been, the government insists that you serve one or two years in an underserviced area before you can come to one of the big city areas. We've met some of these doctors, and some of them are not the least bit interested in treating the people in this area, and we could face the same thing here.

I put my name in last week when I saw the second of the two all-night telecasts. I've talked to some people in the government, those who will return my calls, and I'm told it's entirely a financial matter, that there was \$2.4 billion this government didn't know about when it took over and this entire omnibus bill is to make up this \$2.4-billion deficit. Everybody in their right mind, and certainly the majority of the doctors in the province, are in agreement with curtailing government spending. Government's been overspending for many years. But we're not in agreement with giving up our liberties to the point that we don't have what the average person has in terms of rights and freedoms. That's why I'm here.

The Chair: Thank you, Doctor. You've left lots of time for questions, about six or seven minutes each, starting with Ms Lankin.

Ms Lankin: Dr Edwards, thank you for coming. I imagine it might have been a difficult choice for you to come and talk to the committee.

My own feeling about this bill, to set aside its size and all the various pieces to talk just about what the health care pieces attempt to do, is that I support the government's effort at restructuring and fiscal responsibility. We can certainly have a disagreement about the nature of the problem and why the problem's there and/or the way to go about it. That's a partisan difference and that's for another arena.

What I'm concerned about is that this bill takes powers on to the minister and to bureaucrats in the ministry beyond what is necessary to effect the restructuring, that it denies rights beyond what is necessary to achieve the goals the government has, and that it is ill-thought-out in the speed in which it was put together in the various departments that must have worked on it, and the compilation of all the parts spells a very dangerous story for the future. In fact, it's very contrary in intent to the government's proclamations about wanting less government, not wanting to bureaucratize health care and not wanting to undermine volunteers. I see all those elements in the bill. 1920

Let me ask you a couple of questions. I know that at other times under other governments there have been measures the governments have taken—or have tried to take and then sat down and negotiated alternatives—that the medical profession has been very angry about. There have in the past been suggestions that the nature of government actions would cause large numbers of physicians to flee the jurisdiction.

The Minister of Health himself, when he came and presented to us at the beginning of this week, indicated that this wasn't a concern, that if you look over the last 10 years, it had been pretty stable at 1% to 2% of physicians leaving and a certain percentage coming back, that it was pretty stable—besides the fact that that's different from what he used to say when he attacked me as minister.

I've heard from a lot of physicians here that the level of interference with decision-making and billing numbers and lack of rights of appeal are going to cause people this time to seriously consider leaving. Do you believe that is a real, likely result—I don't at all intend to sound demeaning—or is it an easy point to make when one is upset with what government is doing? How real is it, would you say?

Dr Edwards: I think it's very real. I've heard even more this time than ever before that doctors are planning to leave. Right now I've got a young lad from Honduras who's been up on the Herbie fund four times. I first saw him five or six years ago, and he had a serious congenital malformation. Dr Churchill at the Hospital for Sick Children was the world's expert in this operation. He did the initial two operations, but he's now in California, so this time up, there's somebody else in his place.

We're losing very skilled people and we're going to lose—if this thing goes through unchanged, it's going to be a serious problem, in my opinion. It's going to be a serious problem not only for those who leave but for those who stay. It's going to be very difficult to practise medicine under this type of unheard-of interference, and, "Look behind you before you make a move." That's not the way to practise medicine.

Ms Lankin: Let me ask you about that part of it. In the old bill, if the general manager of OHIP had reasonable grounds to think something was wrong with the billing, they would refer it to the Medical Review Committee and there's a peer review process. Now the general manager would make a decision and it would be up to the doctor to appeal that to the Medical Review Committee. But the grounds have changed slightly and there's a couple of new words that have been added.

It used to be if there were reasonable grounds to suspect that the service wasn't "medically necessary." Now they've added the words "medically or therapeutically necessary." As a layperson, I have a certain sense

of what that difference might be and what that means, "therapeutic," but how do you relate to that as a professional, to know that the general manager of OHIP and the bureaucratic structure would be trying to make a decision up front about whether something was therapeutically necessary? How would they do it?

Dr Edwards: They can't. That's the short answer. "Medically necessary" is totally different from "medically advisable." The people using the statistics for closing some of the emergency departments are using exit data. If somebody goes to the emergency department thinking he's had a heart attack and it turns out his cardiogram is normal—the doctor takes his story, checks a few things, says, "Fine, you're under a lot of stress; you're okay"—they use that exit diagnosis to determine that his visit was not medically necessary. Well, that's absolute rubbish, and that's one of the things that has been used to determine that a lot of these emergency department visits are not necessary. That's after the fact. You can't do that. They're trying to do the same thing here.

What if every MPP and every civil servant were liable financially, somewhere down the line, for every mistake he made? "Oh, by the way, you know that mistake you made two years ago? That's going to cost you \$2 mil-

lion." Get real.

Ms Lankin: You mentioned also the powers of hospitals with respect to revocation of privileges. It's clear in one section of the act that where a hospital closes or merges or whatever and it's restructuring and downsizing, there is the right to revoke without appeal. A point's been made, that where is there ensuring that the physician follows the patients as you restructure? That's not in the act.

The piece that is in the act is that, irrespective of closure or merger, in any other circumstances it can be thrown into the regulations. A hospital could revoke the privileges and there's no right of appeal. If privileges are revoked and you're in an overserviced area, you have a patient base you've worked with. Again, I believe the government needs to deal with the issues of underserviced areas and overserviced areas and hospital closures. But where's the physician left in this, in terms

of your practice and your patients?

Dr Edwards: You're up the creek without a paddle. The problem with hospital mergers is also—for example, my hospital, Humber Memorial Hospital, and an adjacent hospital, Northwestern, have apparently been ordered to merge, and I guess this is going to come through. One of the hospitals has an oversupply of one particular subspecialty, and when the hospitals merge, are all these people going to be accommodated even though it could be an oversupply? Or is the purpose of the bill to be there so they can say to one or more people like this: "You drew the short straw. You're going to have to go somewhere else"?

A lot of this stuff is open to interpretation. If a person like the minister or the director of OHIP or the CEO of the hospital has wide powers, without any ability to appeal a decision, you have to really hope they've got your best interests at heart, and those who come after them.

Mrs Ecker: Thank you very much, Dr Edwards, for coming tonight. I certainly know of your record of

service. You have set a very high standard in this province for much of the care and the things you have been involved in.

Before I ask a question, I would like to point out that the phrase "not therapeutically necessary" is indeed in the old Health Insurance Act, as is "reasonable grounds," as is "not medically necessary," so the fact that those phrases are included in the new legislation—they were also in the old legislation.

Anyway, you talked about underserviced areas a little. As you know, for many years the government and the OMA have been talking about what to do about underserviced areas. There have been incentive programs, there have been mentor programs, there have been special programs with the college and the OMA, bringing in physicians from other countries, there have been the educational programs in the north. A number of things have happened to try to get physicians into underserviced areas, and the problem has been getting worse.

The Minister of Health has gone to the OMA again this year to say, "How can we resolve this problem?" and the problem remains unresolved. So the minister has felt it was necessary to bring in restrictions for new physicians—not existing physicians; for new physicians—on billing numbers. He is also implementing the recommendations from the Scott report, which talk about incentives for physicians in new areas. You're quite right to point out that some of the educational programs in colleges like Lakehead are going to be very helpful and very useful.

Given that we've had literally years, and at least three governments previously have wrestled with the underserviced area program, trying to solve that problem, what is a government, any government left with in terms of trying to get physicians in those areas? The problem is getting worse. There are more and more communities that are in desperate need of physicians.

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Dr Edwards: I don't know personally, but Dr Huggins says that he's made these suggestions before, and I'll pass them on again, that departments of psychiatry and general surgery especially, but also probably obstetrics, paediatrics and internal medicine, intern training should have a rotation through a northern area. It seems to me, not being at all on the inside, that there has been probably relatively poor communication, because I think you should bring a third party into the equation, and that's the medical schools and the training programs.

Mrs Ecker: Mr Wilson has tried to do that. He does

try to do that.

Dr Edwards: That's admirable, because I think you need to have a good coordination between the three. I remember when a friend of mine, Dr Martin Barkin, was the Deputy Minister of Health. He made the comment at one time that somebody said we're getting too many doctors and we need to cut back on medical school enrolment, and his comment was, "Which medical school enrolment would you choose to cut back on?" The answer I would say would be everybody by the same amount so as to be fair.

Obviously it's a problem, but I don't really see what that has to do with some of these other measures which include total invasion of privacy of doctors' patients' records. Somebody has told me that was present in previous legislation. Perhaps it was, but the clear feeling seems to be that this is intensified so that the government can take any records they want to prove whatever point they want, including, I suppose, whether somebody had ordered a service that wasn't medically necessary.

Mrs Ecker: We think there hasn't been an extension, or a breaking of confidentiality, and if it takes an amendment to prove that is not the case, we're certainly prepared to consider that, because we do believe that confidentiality is very important, but patient information, without identifiers, must be accessible for quality control purposes, for example, which it is under independent health facilities, under quality assurance provisions, and we want to maintain that kind of quality assurance.

The other thing I would ask is that I know that in my own area where we have gone through a restructuring exercise, and I know that in the Metropolitan Toronto District Health Council restructuring exercise, a human resource plan has been very much part of that plan, because they quite recognize that all health care professionals—doctors, nurses—are going to be displaced by the restructuring exercise and they have put a lot of time into trying to make sure that they can be accommodated to the extent that it is at all possible. The government has said very clearly that it is those restructuring plans with those human resource recommendations in them that are what the government wants to follow, those community recommendations. I just wondered if you had some comments on that.

Dr Edwards: I think that's good and essential, and I've seen some manpower studies available province-wide and Canada-wide. I would hope there would be some dealing with that problem. That, I think, is essential. But the perception remains that all my medical colleagues and I are very concerned that we are being put as responsible for any overspending. Any clear-thinking person realizes this is not the case. The patient is driving the system; it's not the doctors. Where the doctors are driving the system in unnecessary tests or consultations, it's because of this threat of being sued and/or reprimanded by the College of Physicians and Surgeons, which seems to pander endlessly to frivolous complaints.

Mr Colle: One thing that seems to come through in your presentation is that you feel there's been a dramatic shift of principle or an abandonment of principle. You offered your services as a candidate in the last provincial election because, I'm sure, you believed in the basic principles of the Conservative Party. I guess that was the ultimate political involvement and you felt strongly enough to do that. I would assume you did that because you felt you could contribute as part of this new governance that you thought was needed. I commend you for doing that

I know you have also spent, not to be patronizing, a good number of months and years away from your family helping people in the Third World because you really believe in your profession and the ability to help people. I know you're a man of conviction and I think that was why you were a candidate in the last election against Bob Rae. What I'm trying to get to is, why has the party that stood for certain principles abandoned its principles?

The thing that intrigued me was your comment when you phoned someone inside the offices of the party's inner sanctum, or the government's inner sanctum, and they said, "It's a financial matter." Did they ever try to explain that this might be a way of protecting, saving, enriching, offering better medical care to people who need these important services or was it just a financial decision by someone outside of Jim Wilson or whatever?

Dr Edwards: My feeling is that these proposed solutions had been floating around first ministers' conferences, of health, for five to ten years, and the prior government and the government before it rejected some of these measures as being too harsh. They've been there for a long time and they've all been put up by the civil service. Why they're being embraced at the present time by the present government and the present Minister of Health is a deep mystery to me. I think it's unfortunate and misguided; perhaps a convenience, an easy way, to seek a plan that's already been there, laid out before you and all you have to do is plug it in: Here it is, all set up for you.

I object to it very strenuously. I only got involved in this election because I felt that the last two governments didn't address the problem correctly. Never would I have imagined that this government could possibly be looking to make matters worse in the opinion of the doctors of this province, and I speak for 90% of the doctors of the province. I have talked to a lot of doctors, from all over the province, and I am not aligned with the OMA, except as a member, but we all are, and I do it for the health insurance premiums.

Mr Colle: To follow up on that, I want to read a quote from the now Minister of Health when he was in opposition: "They're going to tell every physician exactly what services can be rendered, what services will be paid for and how often those services will be available to the people of this province. The fundamental question here is, do you trust Bob Rae, do you trust Dr Ruth Grier to run your health care system?"

With the articles in this Bill 26 and the intrusion it is essentially establishing into a doctor's ability to provide that essential service, one on one with their patients, do you trust the Minister of Health in essence to be the guardian of our medical services in Ontario?

Dr Edwards: I wouldn't trust any one person to have so much power. That's the whole problem, whether it be Jim Wilson or whether it be someone else. It's just a terrible mistake. If he says, as he is reported to have said, that he'll never use some of these powers. if they're there, the person succeeding him can. Besides, when a certain person took away the rights of an entire people in 1933, proclaiming a general measures act, it was saying, "I'm taking away all your rights, but trust me." It's not on, believe me. Nobody can accept it.

The Chair: Thank you, doctor. We appreciate your interest in our process and your coming to talk to us tonight.

Ms Lankin: Mr Chair, may I take a moment to correct something I said, on the record?

The Chair: Yes.

Ms Lankin: Ms Ecker had pointed out that there was a reference in the old Health Insurance Act to "therapeutically necessary," and in fact she's right. It is under a section that doesn't deal with doctors, it deals with practitioners, and as I read it, I've come to understand a little bit better the provision in Bill 26 with respect to that. Perhaps for our legislative drafting convenience, it seems to have drawn together physicians and practitioners under one clause and so the reference to "medically necessary" and "therapeutically necessary" appear in the one clause referencing.

You're nodding your head. I suspect you just found

that out as you've been flipping here looking.

Mrs Johns: That's what I was running back there for. The point that we made about the Ms Lankin: decision of the general manager taking effect and the doctor having to appeal to the medical review as opposed to before, the decision of the general manager being referred to the medical review or practitioner review, we were correct on that point.

I just make one point as I say this, which is that I've been looking at this legislation in the old acts and the descriptions in the backgrounders for two weeks now and I've been sitting through these hearings and I've been raising points and I've been trying to understand it and have just put these two pieces together, and this is the reason why you can't do law like this and why you can't have these kinds of proceedings going on without somebody carrying the bill who can answer these things. We have been struggling on that point now for two days and it could have been explained.

The Chair: Thank you, Ms Lankin. I appreciate your

comments.

ROBERT KERNERMAN

The Chair: Our next presenter is Robert Kernerman. Good evening, sir. Welcome to our committee. You have a half-hour to use as you see fit. Questions, if there's time for them, will start with the government. The floor is yours, sir.

Mr Robert Kernerman: I have some experience in this area. I was a hospital board member for eight years in the city of Windsor. I was the chairman of a hospital there for two years. I sat on the Essex district health council for 10 years and, as well, I was on the Red Cross there for eight years. I'm going back to the 1970s, which is history, but I've kept kind of current on some of these matters.

In my opinion, Bill 26 is long overdue. If we have over our heads here a \$100-billion debt in the province, as I understand it, that equates to about \$12,000 a person, so on the \$100 billion we have to pay roughly \$8 billion or \$9 billion a year in interest, and my understanding is that's the reason we're getting involved in this particular bill: to try and downsize the debt so we don't have this hanging over our kids and our grandchildren.

Going back to the late 1970s, when I was involved as a chairman of the hospital board in Windsor, we were actually starting off with the rationalization of services and the hospitals really didn't cooperate much with each other, and I would suggest that hospitals don't. Much like

municipalities, you have to have some sort of stick over their head or else they'll just procrastinate, keep talking, having committee reviews and hearings and papers. I don't really think this is a bad thing, for the government to stimulate and move along and try and streamline the bureaucracy, much like a lot of corporations have had to do over the last 10 years.

As you all know, there's been a terrific amount of downsizing in a lot of industries. I used to be associated with the automobile industry when I lived in Windsor. At that time, Chrysler Canada, when I was there, had about 14,000 employees; today they have 8,000. There have been terrific advances in technology, and much of this has to happen here. This is an area in which it probably hasn't happened. I'm only going into this because I think it's important to get into the background and probably some of the reasons why this bill has been brought in.

I would suggest that perhaps the entire medicare system, which was initiated by Mr Justice Hall under I think then Prime Minister Diefenbaker, may be somewhat outdated and perhaps we have to get into some sort of modified user fee, something so that the doctors would continue to be motivated and people who need medical care or medical assistance, if they can afford to pay for it, have to pay for it.

To get into the reason Bill 26 has come in, so I can make some suggestions, the overspending which our province has unfortunately incurred over the last 15 years and the loss of the manufacturing job base to the Third World is something I think this government can correct by offering some accelerated tax credits for high-tech manufacturing equipment which would increase the job base and bring back jobs which have been lost basically

to the Pacific Rim.

The Premier, as was pointed out in the media yesterday, was somewhat disappointed that we only increased our job base in Ontario by 12,000 jobs instead of 70,000. I think we have to make a very strong, concerted effort to be very competitive with some of the states in the United States, such as the Carolinas. It may require changes in some provincial legislation to offer certain types of incentives, but all this will really increase the job base, will bring in more revenue, will make bills like Bill 26 not as necessary as it is today.

I don't want to get into all the details on Bill 26 because obviously you've heard from other people on that, but I think you have to look at the whole picture.

Quite frankly, sometimes that's lost sight of.

The other point I want to make is that the minister's discretion I feel should be exercised in a reasonable manner and in a compassionate manner, because as you know, when you get into the healing business, basically you're dealing with lives, and the minister should deal with all this in a reasonable and a compassionate way. My suggestion is that we should increase our charitable tax credits so that basically the individuals and the private sector become more responsible for the real poor, for the disabled, rather than have to go to the government every time something comes up.

Basically, that's my presentation.

The Chair: We've got a fair bit of time left for questions, beginning with the government.

Mr Clement: Thank you very much for your presentation. I very much appreciate the time and effort you took to be here in front of the committee at this late hour.

From your perspective, you've had a lot of time assisting in the health care sector, particularly in Windsor and Essex. Is the status quo in health care working right now, as you see it?

Mr Kernerman: Down there?

Mr Clement: Down there or anywhere.

Mr Kernerman: The status quo? From what the previous speaker said, the doctors have been under quite a bit of pressure over the last number of years. I don't think this is something that's come up because of this particular bill. No, I don't think the status quo is working. I don't think the doctors have been motivated to really practise medicine. We've got a great group of doctors in Ontario and they want to be business people. They're getting into the swing of the new government. They really want to be business people, and maybe the system has to be changed so that they are business people.

Mr Clement: To allow for more entrepreneurial aspects in the health care system.

Mr Kernerman: That's right, yes.

Mr Clement: That requires changes, and I guess what we're grappling with as a government, just so you know, is that we want to see some changes. We want to see value for money for the taxpayer, and we want to see value for the patient, obviously—that's got to be a primary concern of any health care system—but there's got to be, at the end of the day, and I hope Ms Lankin will agree with me on this, an actor who actually gets things done. We can talk and talk till the cows come home, but unless you have an actor, then we're creating more of a problem for ourselves, not less of a problem. Would it be fair to say that the only actor who can deal with all these aspects of the health care system is the Minister of Health? Is there anybody else out there who can deal with it?

Mr Kernerman: The minister has to, because it's a socialistic system. It's not a free enterprise system; the government's involved in it, and perhaps it's about time they start phasing out of it. I know you have restrictions from the federal government, and this has come up, but I really think times have changed. We're going to be in a worse and worse position against the Third World. Mike Harris is doing a great job. You have to go in that direction, and the public wants him to.

Mr Clement: We've heard a lot of criticism from the opposition in this committee, and, to be fair, some of the presenters have said this as well, that we're going too far too fast. What's your point of view on this?

Mr Kernerman: Too far too fast? No, because we have a \$100-billion debt hanging over heads. We're never going to get rid of it. That's the whole motivating factor here. If we didn't, we could sit around for years and talk about this and talk about that and have studies and commissions come back, reports. We haven't got time. I think that's what the Premier is concerned about. The public is telling him that we don't have time. That's the message from the last election, unless I'm wrong, and he's following what the people have told him.

Mr Colle: I infer from the questions and your answers that you think we should be following the American model of medicare: pay as you go, free enterprise.

Mr Kernerman: They have problems, but if all the doctors suddenly over the years have been—particularly in Windsor, over the last 10 or 15 years a lot of the specialists have gone over to the States because it's easy to lure them over to Detroit for conferences and then they somehow disappear into the American system.

The doctors are the key to the whole deal here because they're the ones providing it, and the minister is over it because he's paying the bill. Yes, I think you have to get

into the free enterprise system more.

Mr Colle: So the American system would maybe be the way to go.

Mr Kernerman: Well, if I can correct that, the American system doesn't help the real poor sometimes. I don't know if they can all afford it.

Mr Colle: So there is a problem with the American system. That 40 million people in the States have no

coverage at all is a bit of a concern to you.

Mr Kernerman: This is why we're ahead of them in that part. But the other people who can pay—I mean, I can pay. I don't have to be on this system. If I go to a doctor and it's \$150, I'll pay him.

Mr Colle: You mentioned that the rationale behind all this is the debt. If this is all motivated by the debt, why is the Harris government so committed to throwing away \$3 million to \$4 million a day on this tax cut for the rich? If you were really concerned about the debt, maybe you would use that money to lower the debt rather than give a tax cut to the people who do pretty well by themselves.

Mr Kernerman: I think the philosophy there is that the money going back to people will go back into the system and purchase more goods, which would create more jobs. Unfortunately, those jobs are in the Third World. That's why we have to increase our job base here.

But with what happened yesterday or the day before with the increased expansion at the Honda plant, to me, that's a perfect opportunity for tool and die incentives and for moulding incentives for the car industry. You're asking, what has this got to do with health care? It has, because it's all one picture. This is an opportunity where the government should be offering certain incentives so that the sourcing is done here. Again, we create more jobs here and we have more money here, so Bill 26 does not become as critical.

Mr Bartolucci: Do you agree with the Information and Privacy Commissioner that there should be about 37 amendments to the existing legislation with regard to privacy of information?

Mr Kernerman: I'm sorry, I haven't gone over all those points. Could you give me one or two of the more salient ones?

Mr Bartolucci: Do you think the Health minister should have access to information—

Mr Kernerman: I can answer that. I personally don't have anything to hide. If I were going around every day to a different doctor for a different opinion about some matter, maybe I would.

Mr Bartolucci: So you're saying he should have the right to that information and to do with it what he wishes.

Mr Kernerman: He's paying the bill.

Mr Bartolucci: No, he's not paying the bill. We're paying the bill. The taxpayer is paying the bill.

Mr Kernerman: That's fine. He's administering the

funds. I think he should, yes.

Mr Bartolucci: What's your reaction to the government's desire not to pay CMPA premiums any more? What effect will that have on services to the public at large?

Mr Kernerman: What is CMPA?

Mr Bartolucci: The Canadian medical protective—

Ms Lankin: Malpractice insurance.

Mr Bartolucci: Yes, malpractice insurance, simply put. Have you read that section?

Mr Kernerman: No. What is the existing policy now,

can I ask?

Mr Bartolucci: Do you believe doctors in the province have rights to protection?

Mr Kernerman: Yes, of course.

Mr Bartolucci: Who should be paying for this?

Mr Kernerman: In terms of their malpractice insurance? Who's paying for it now?

Mr Clement: The taxpayers.

Mr Bartolucci: Partially.

Mr Kernerman: I guess he's trying to reduce the costs. Is that what you're saying?

Mr Bartolucci: I don't know what his rationale is.

Mr Kernerman: I'm not that familiar with the motivation for the change there.

Mr Bartolucci: An earlier group of physicians and surgeons proposed that a commission on the provision of medical services be established to advise the minister. Do you think that that's a good idea?

Mr Kernerman: What would be the scope of their

responsibilities? What would they do?

Mr Bartolucci: It would be readily accessible information about how services should be provided throughout Ontario. Do you think that's a good idea or a bad idea?

Mr Kernerman: It depends. Who would be on the

commission?

Mr Bartolucci: I would suggest that it would be

made up of doctors.

Mr Kernerman: I don't see anything wrong with that. This is part of the dialogue. You always have to have a dialogue with your doctors.

Mr Bartolucci: Do you think the dialogue should

The Chair: Thank you very much, Mr Colle.

Mr Colle: Bartolucci's his name.

The Chair: I'm sorry, Mr Bartolucci. Ms Lankin.

Ms Lankin: Mr Kernerman, I appreciate you coming tonight. Did you travel from Windsor to be here?

Mr Kernerman: No, I live here.

Ms Lankin: Oh, you live here now. But I appreciate

you taking the time.

You can well imagine that there would be some parts of the views you've put forward that I would hold a different opinion on. That's fine. Those things are always open to debate and discussion.

Having listened to Mr Bartolucci, I don't want to ask you questions on specific parts of the bill if you're not familiar with the actual bill. It was more the intent of the bill overall that you wanted to address tonight. Is that

Mr Kernerman: That's right, the reasons and the

philosophy behind it.

Ms Lankin: Let me just share with you that I think there has grown in this province, among the public and among the political parties, a consensus around the need to deal with fiscal challenges facing the government. There are some very different points of view about how

they should be addressed.

Putting that aside for a moment, just so you know why my party will oppose this bill, it's not because we don't think the government should try and deal with the fiscal matters it's set out and that it should not try and proceed with the mandate it was elected on. We believe that this bill as it is put together—and now let me just talk about the health sections this committee is dealing with—takes draconian powers on to the minister and the bureaucracy far beyond what is necessary to deal with the fiscal elements, and that it is poorly drafted and poorly thought through in that sense.

While I appreciate your comments in general, that you support the government's mandate and its direction and if this bill's necessary to do it, therefore you support the bill, it's difficult to have the discussion with you because I would want to go into the parts and show you where some of the parts go far beyond what's necessary to meet the government's goal. So that, in the nature of the

dialogue, would be difficult.

I am intrigued by some of the other things you have suggested the government could or should be doing around economic development. As we strive to have a competitive economy, I think we have to look to other jurisdictions. I tend to look more to the more industrialized northern states than South Carolina and others in terms of the package of incentives.

But you mentioned tool and die makers around auto plants. I had the occasion, when I was Minister of Economic Development and Trade, to spend a lot of time looking at the fact that the Big Three in particular had dramatically cut back on their financing to tool and die makers for the production of new tools and moulds for products, and that there is a huge gap in terms of credit from the banks in Canada, as there is not in the States, where there are regional or state banks in Michigan and in the auto-producing sectors that understand how this

We looked at the development of a tooling fund which had some government dollars as a guarantee—not actual dollars but as a guarantee—backing and leveraging the participation of banks to get them into the field, because they're not used to dealing with it. There was a great deal of consensus in the industry and in the financial institutions that this would be helpful. It's something that I felt we should start to proceed on. This was just before the

The current government has decided not to proceed on any elements of working with industry in any way that involves financial backing. Do you think this could be something that would be worth looking at, that perhaps I should be a bit more aggressive in trying to persuade the Minister of Economic Development, Trade and Tourism to take a second look?

Mr Kernerman: I hope the present government considers getting involved in that. As you know, some of the hearings in Ottawa with regard to the monopoly the five banks have—that really shouldn't happen in this country, but unfortunately it has, and obtaining funds for industry today is very difficult. The banks are actually very arrogant if you're a small or medium-sized business and you want to get a loan. Yes, I agree. This is something the government probably should start to get involved in if it has the opportunity.

The Chair: Thank you, sir. We appreciate your attendance at our committee tonight and your interest in our process.

Mrs Johns: Could I add something, Mr Chair? I know I'm not here as the PA, but I want to say, just to clear the record, that I believe in Ms Lankin's first opinion of this, that "physician" and "practitioner" aren't

defined in the same direction. So it isn't like I've let you go for two days believing that.

"Practitioner" is defined as someone other than a physician who practises, and a physician is a medical doctor. In the initial documents, it was only the non-medical who was therapeutic; in this one, the physician and the practitioner—

Ms Lankin: I know that. That's what I said too.

Mrs Johns: Okay.

The Chair: Before we get to go home early tonight, the subcommittee met and we have made a decision that I want to refer to you. A request was put in and we have forwarded it on to the ministries, that the ministers be available during clause-by-clause if in fact they are presenting any substantive amendments to the bill.

We are passing that request along to the House leaders so we can get some assistance in that area. I just wanted

to make you aware of that.

Thanks very much. The committee is adjourned until 9 o'clock in the morning.

The committee adjourned at 2004.





STANDING COMMITTEE ON GENERAL GOVERNMENT

Chair / Président: Carroll, Jack (Chatham-Kent PC)

*Carroll, Jack (Chatham-Kent PC)

Danford, Harry (Hastings-Peterborough PC)

Kells, Morley (Etobicoke-Lakeshore PC)

Marchese, Rosario (Fort York ND)

Sergio, Mario (Yorkview L)

Stewart, R. Gary (Peterborough PC)

*In attendance / présents

Substitutions present / Membres remplaçants présents:

Johns, Helen (Huron PC) for Mr Danford

Caplan, Elinore (Oriole L) for Mr Sergio

Clement, Tony (Brampton South / -Sud PC) for Mr Kells

Ecker, Janet (Durham West / -Ouest PC) for Mr Stewart

Klees, Frank (York-Mackenzie PC)

Lankin, Frances (Beaches-Woodbine ND) for Mr Marchese

Also taking part / Autre participants et participantes:

Bartolucci, Rick (Sudbury L)

Colle, Mike (Oakwood L)

Curling, Alvin (Scarborough North / -Nord L)

Clerk / Greffière: Grannum, Tonia

Staff / Personnel:

Campbell, Elaine, research officer, Legislative Research Service Drummond, Alison, research officer, Legislative Research Service

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Standing committee on general government

Savings and Restructuring Act, 1995

Health issues

Chair: Jack Carroll Clerk: Tonia Grannum

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Vendredi 22 décembre 1995

Comité permanent des affaires gouvernementales

Loi de 1995 sur les économies et la restructuration

Questions concernant la santé

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON GENERAL GOVERNMENT

Friday 22 December 1995

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES AFFAIRES GOUVERNEMENTALES

Vendredi 22 décembre 1995

The committee met at 0903 in room 151.

SAVINGS AND RESTRUCTURING ACT, 1995 LOI DE 1995 SUR LES ÉCONOMIES ET LA RESTRUCTURATION

Consideration of Bill 26, An Act to achieve Fiscal Savings and to promote Economic Prosperity through Public Sector Restructuring, Streamlining and Efficiency and to implement other aspects of the Government's Economic Agenda / Projet de loi 26, Loi visant à réaliser des économies budgétaires et à favoriser la prospérité économique par la restructuration, la rationalisation et l'efficience du secteur public et visant à mettre en oeuvre d'autres aspects du programme économique du gouvernement.

The Chair (Mr Jack Carroll): Good morning, everyone. In keeping with our practice of starting on time if we possibly can, we will begin the morning.

TORONTO BIRTH CENTRE

The Chair: Our first presenters this morning are from the Toronto Birth Centre. Wendy Sutton and Liz Iwata, welcome to our committee. You have a half-hour to use as you see fit. Any time that you leave for questions would start with the Liberal Party. The floor is yours.

Ms Wendy Sutton: Thank you very much. My name is Wendy Sutton and this is Liz. We are both members of the board of directors of the Toronto Birth Centre and are respectively its president and vice-president. I speak today not only on behalf of the Toronto Birth Centre but also on behalf of the St Jacobs Family Birthing Home and the Sudbury Birth Centre.

We'd like to thank the committee for the opportunity to make this presentation and advise you that due to the limited time we had in which to prepare and the existing commitments of the various other members of our organizations, we're not able to provide you today with a written copy of our comments, but we will do so shortly, with your permission, if that's acceptable.

As a general comment, I might just add that the time constraints on this have, I'm sure, made it difficult for many people in our case, just so that you are informed of that. We started our exercise on this presentation last night, and if I look like I got to bed at 4 in the morning, it's because I in fact did get to bed at 4 in the morning. I've also recently finished exams and am not feeling my normal feisty self, so please be gentle on me. I'm feeling somewhat vulnerable today.

Before we begin our comments, we'd like to add our voices to what appears to be a growing number of presenters to this committee who are saying that Bill 26

is simply too big and too complex to be dealt with in the short period of time that the government has allocated to it and it's not well served by hearings at this time of the year. We strongly encourage the government that the debate on this bill be extended and that the bill be divided into manageable pieces to accommodate its review.

The Toronto Birth Centre is a volunteer, non-profit organization with charitable status. Like its counterparts in St Jacobs and Sudbury, the goal of the TBC is to establish a freestanding birth centre in its community to serve the needs of healthy women who wish to give birth outside of the hospital setting. The model of care which we've envisioned is compatible with the midwifery model, and our expectations have been that the majority of practitioners privileged at the centre would be midwives, although we in Toronto have always anticipated that in lesser numbers there would be the involvement of physicians and nurses contributing to a multidisciplinary team of caregivers. We are committed to informed decision-making, continuity of care, universal access and providing the opportunity for women to choose their place of birth with the certainties of safety and satisfaction.

Over the years we've identified a level of demand among women wanting to use the freestanding birth centre that exceeds any level of service provision that we or the ministry have ever contemplated. Figures from a highly sophisticated system in the United States have confirmed the safety and efficacy of out-of-hospital birth centres, and those successes are being translated into the reality of practice of Ontario midwives. We've also repeatedly, and with cumulative improvements, been able to demonstrate the cost-effectiveness of the freestanding birth centre concept.

The TBC has been advocating for an out-of-hospital birth centre service for 17 years. It has known now four governments and 11 ministers, two of whom are delightfully present in this room. As members of this committee will know, the Toronto Birth Centre, along with groups in St Jacobs, Sudbury and Fort Albany, were successful proposers to the RFP issued under the Independent Health Facilities Act in 1993. As members may also know, after 18 months of negotiations with the ministry, the selection of sites, the signing of long-term leases, the hiring of staff, and an extensive expenditure of time and resources, the current Conservative government eliminated the program on September 28 of this year. Naturally we were, and still are, extremely disappointed and disillusioned about the cancellation of this program. We feel none the less that as one of the few groups, if not maybe the only non-profit volunteer group, to be approved as independent health facilities, we might offer a unique

perspective to this committee with respect to the IHFA amendments that have been incorporated into Bill 26.

It's no secret that we did not feel comfortable that our program was to be governed by the IHFA. The member for Oriole will recall the number of spirited debates we had regarding its appropriateness as an application for the freestanding birth centre model. As well, the member for Beaches-Woodbine will remember our objections to the act when she first took office as Minister of Health. However, as the IHFA provided the only real mechanism for funding, because it created a protection of quality assurance and standards, and as we continued to receive encouragement from both the Liberals and the New Democrats, after 12 years of trying we accepted the IHFA as a vehicle to help us realize the Toronto Birth Centre.

Our concerns with the IHFA related to such things as its procedural orientation, the statutory assignment to the medical profession of the development of standards and quality assurance programs and at the time the uncertainties of government funding, and particularly those

revolving around pre-operational costs.

Once we had been approved, many of these issues were resolved to accommodate birth centres. The College of Midwives was invited to participate jointly with medicine and nursing to produce standards, the results of which were remarkably compatible with our own. Successive governments confirmed their willingness to provide pre-operational capital in order for us to open our facilities. Adherence to procedural orientation gave way to permit hours in birth centres extended beyond the established 24 hours of other IHFs in order to accommodate the occasional situation that might demand it. In short, I think governments over those years made a considerable effort to try and accommodate the birth centre concept in a way that the act hadn't intended in the first place or contemplated in the first place.

I might add that none of this was easy to establish. On the contrary, a great deal of time and energy on the part of the ministry and ourselves was required in negotiations to get as far as we did. By last September, when our program was cut, we were projecting a per-birth cost in Toronto of \$980, compared to ministry-verified hospital figure estimates of between \$2,200 and \$2,900 per birth. The combined savings of the groups in St Jacobs, Sudbury and Toronto, once at full capacity, would have returned well over \$1 million per year to the public purse of Ontario, and the recovery of capital expenditure for these projects would have been easily and quickly achieved.

0010

We have serious concerns with the amendments to the Independent Health Facilities Act, and because we haven't had the opportunity to review Bill 26 in total, we will confine our comments, if we may, to the Independent Health Facilities Act portion of the bill. I'd like to run through them in a fairly clinical fashion, as it's the effect of them on what our vision as a volunteer, non-profit, community-based organization might be that we hope will provide this committee with some insight from our presentation.

First, in the definition of "independent health facility," the word "insured" has been removed. This suggests to us

that facilities are open to profit orientation and we see this as a threat to universal access that's a principle that we are soundly committed to.

Similarly, in the definition of "facility fee," "insured" is once again omitted, entitling the operator to raise a fee

for either insured or uninsured services.

Section 4, which entitles the minister to unilaterally designate both services and facilities, coupled with section 5, which eliminates the RFP process, represents a potentially astounding level of ministerial power as the sole designate to establish the province's program for independent health facilities.

Moreover, the revision to section 5 appears to completely eliminate the involvement of the district health councils in the IHF and overall planning processes within their districts. Their apparent elimination from the IHFA development process damages a valuable planning nexus between the government and the communities that it

represents.

Section 6 takes our concern one step further, with the elimination of non-profit preference and the Canadian residency preference, which would appear to be an open invitation to both the private sector and the American

entrepreneur.

We read section 24 as providing the minister with the ability to claw back from operational revenues moneys to offset any funds for capital startup. In the event that non-profit groups were successful in securing licences, this clause would render them highly vulnerable to repayment, resulting in either increased facility fees or the requirement that they independently raise additional funds.

We are concerned about the increased power of the minister contained within these amendments related to revocation, renewal, issuance of a licence. While powers such as these were contained in the original IHFA and criticized when it was drafted, the new act not only increases those powers but fully immunizes the minister from any action or liability resulting from their application.

Lastly, and this is reminiscent of our comments in 1989 before the standing committee on social development, when it conducted its hearings on the IHFA in the first instance, there are no regulations to review. Given the arbitrary powers granted to the minister by these amendments, we have grave worries about the potential

for regulatory chaos or abuse that may result.

One cannot avoid hypothesizing about how the proposal of the Toronto Birth Centre would be treated in the light of these amendments if it were being presented for the first time.

First, we would likely not be designated as an IHF by the Minister of Health. The obvious reason for this is that we are non-profit and volunteer and would not bring with our application the funding to cover establishment or operational costs.

Even if we were lucky enough to be granted some form of funding, we would expect that the ministry would require funding recovery of these costs from us, under section 24, from future operating revenues. Under these circumstances we would not be able to maintain the low per-birth costs that we currently project because we would be required to increase our facility fees to offset

repayments; or more likely, because of our commitment to universal access, conduct an independent campaign of fund-raising, and we think this a particularly onerous

potential for volunteer groups.

Early in September of this year the Toronto Birth Centre, the Sudbury Birth Centre and the St Jacobs Family Birthing Home gathered their courage and met with Jim Wilson's staff. We knew of the potential for cuts to programs and we wanted to persuade him of the merits of ours, particularly the financial common sense that we thought we could offer. We did this also because we heard Mr Wilson answer a caller on a radio show who asked of his expectations for the future of communitybased initiatives within the government's program of fiscal review.

He said that he would be persuaded by "good data to support the move to the community to justify the change from institutional care." We checked this comment in the Common Sense Revolution, and by golly, it's there, right there on page 19, an invitation to participate in reducing the costs of health care in Ontario. We accepted the invitation and it's now well known what value there was in that exercise.

Quite frankly, four months after we have been cut, after requests to meet with both Mr Wilson and the Premier have been refused, we still cannot understand the rationale behind this decision. Since September, we've been given no reason to allow us to believe that financial considerations justify this decision. In short, we really don't know what this government wants or what it would

take to make it happy.

Before concluding my comments this morning, I would like to return once again to the issue of ministerial powers conferred by the amendments to the IHFA. When the IHFA was first introduced in 1988, section 9 was among the most heavily debated. It is of course section 9—that's the section that allows the minister to withdraw the issuance of a licence after a proposal has been accepted and to do so without any appeal or recourse from that decision whatsoever—that was invoked to eliminate the birth centre program in September.

Ironically, we commented on this before the standing committee on social development, and we were not alone in our criticism. Others agreed with this. This statement was made in the Legislature during second reading of the

IHFA as Bill 147:

"I am somewhat disturbed by...section 9...which allows the minister to completely override the appeal process in his or her wisdom....I do not question the current Minister of Health's"—that was Mrs Caplan—"motivations about this legislation. I have nothing but respect for the current Minister of Health...but members should bear in mind that there are going to be future ministers of Health and there are going to be different circumstances and different stressful situations that ministers of health are from time to time going to find themselves in.

"The minister is given the power under section 9 to decide to revoke a licence, to not grant a licence, to come in and take over independent health facilities, all of which can happen with absolutely no recourse of appeal whatsoever. I find that very disturbing. I find it disturbing as a matter of equity. I find it disturbing as a matter of

law.... The possibility exists...for a Minister of Health to decide for whatever reason and the reason could cover anything from his own personal belief to political reasons to revoke or not grant a licence without any accountability to anybody whatsoever for that decision, at least not legally, not the way this bill is drafted, not the way section 9 of Bill 147 reads.

"I do not think that opportunity, however limited it is, for abuse of the political process should exist and be

enacted into legislation."

These words are attributable to the then Conservative Health critic and now current Finance minister. Ernie Eves. The minister's comments are painfully meaningless to us now. What is frightening about this reflection and the hypocrisy it suggests is that Mr Eves, who is in the provincial driver's seat, will be driving the agenda that will set the new IHFA in motion. Unless it is altered, this will include all of the new powers afforded the minister by the amendments, and it would appear, based on past performance, that there will be no compunction in applying them.

Bill 26, as it is currently drafted, would appear to put an end to any hopes that the free-standing birth centre organizations have to open their facilities in the immedi-

ate future.

I'm just going to jump a little bit here. There's a section of this where my pages were out of order that I would like to touch on, and I will just pick it up at this point by saying that I have used the word "amendment" without qualification throughout this presentation. In fact, the IHFA, as we review it, has not been amended; it has been completely rewritten. It bears absolutely no resemblance to the act it presumes to succeed. Nothing remains of its ability to support the community-based initiative that the officials who approved it or advocates who promoted organizations like birth centres ever envisioned.

Instead, it sets the stage for the potential privatization of health care in Ontario. It extends an open invitation to profit-making operators to set up shop in our health care system. There is nothing in this act to prevent entrepreneurs from the United States to fill the void. It provides total and unilateral authority to the minister to decide who will be the operators of independent health facilities, what services these facilities will offer and at what price they will offer them.

In this particular scenario, we certainly see a future for birth centres, but the birth centres we see are not governed by non-profit and volunteer commitment. They are market-driven, and this underlines the very serious contention that this government's goal in cost-cutting is paramount to all else. The kinds of facilities this legislation is telling us that the minister wants are privatized birth centres available to those who can pay for them and those who want them, in that sense.

Bill 26, as it's currently drafted, would appear to put an end to any hopes that the free-standing birth centre organizations have to open their facilities in their communities in the immediate future. For the Toronto Birth Centre, the possibility of realizing its goal within 20 years of having conceived the idea seems remote. We are quickly assuming that the record for the longest gestation period for any program in the history of Ontario health care will be the birth centre program. We remind the government and Minister Wilson once again, however, that our door is open, never closed. We will always welcome the opportunity to discuss to see if we can't resolve some way in which a birth centre program can be established in Ontario.

We urge this government to rethink its commitment to the many individuals and groups to whom it has extended its invitation and who, like us and like you sitting here, all of us, want to see a better, more efficient and more cost-effective health care system in place in this province. We urge you to consider the construction of the IHFA and, I'm assuming by what I gather and understand, other amendments to Bill 26 to allow this to happen. We ask this committee to support us and consider these efforts in effecting such a result.

That concludes my submission. We invite your questions, and we'll do our best to respond to them. Thank you. Excuse me for getting my pages out of order—4 o'clock in the morning.

The Chair: Thank you. We have about three minutes per party for questions, beginning with the Liberals.

Mrs Elinor Caplan (Oriole): Thank you very much. I share your frustration and your anxiety and your concerns, not only over the loss of the centre, but on the process by which that occurred and also the changes and amendments to this legislation—excellent brief and excellent presentation.

I guess the primary question that I have for you is, given the speed with which this is going through and also the fact that there are huge policy implications in this bill—and I think you point out quite rightly that the independent health facility legislation is not just amended, it is dramatically changed. I don't believe that legislation is something that needs to be in the government's hands by January 29. We could take some time. What we're asking them to do is to subdivide the bill and to allow for further scrutiny so people will fully understand not only what they are changing in the bill but why, because we haven't had any real understanding from this government as to what it is ultimately that they hope to accomplish and achieve with these massive powers and massive changes to existing legislation.

So you're up till 4 o'clock in the morning to present an excellent brief; many people are not going to be able to come at all, because there isn't time. Do you think it is important that these bills receive the greatest scrutiny?

Ms Sutton: Absolutely. I did indicate that when I spoke. I would say yes to that for two reasons. I suspect, and this is at the very least human nature, that with the speed and the size—when I pulled this off the computer database I was amazed at what was in there and the extent of it—there have to be errors. No one can humanly pull this kind of thing together and review it in the time frames that have been set out here without making those mistakes, and that will be something that, regardless of partisanship, everyone is going to have to deal with and likely pay for.

With respect directly to the Independent Health Facilities Act, my concern about review of this particular set of amendments is the fact that there's so much undefined.

The difficulty of interpreting this particular act is coming to grips with the integration of different amendments that it contains, trying to anticipate the impact of what the bill will do in sum total. I don't feel confident that I certainly have seen all of the implications of these amendments as they combine themselves, married off with the very clear emphasis on ministerial power under this act and the lack of regulations. I think the potential for this is absolutely astounding.

Mrs Caplan: And given that-

The Chair: Thank you, Mrs Caplan. Ms Lankin.

Ms Frances Lankin (Beaches-Woodbine): Wendy and Liz, thank you both for your presentation and for the effort to be here. There have been some empty spaces; you may have heard that on the radio this morning. I was quite angry yesterday when I heard a member of the government say, "See, people aren't really interested." It's two days before the Christmas weekend. I've talked to some groups that were called to come in; they can't get their briefs together and they can't get people together in time. It is to your credit that you are here, but it is outrageous that you had to stay up till 4 o'clock in the morning to be here.

Having said that, my sense of what we have here is a combination of some things that the government itself knows that it needs in order to accomplish a fiscal agenda and then a whole lot of stuff from a whole lot of different ministry departments thrown in, because once the acts open up—we know what happens within a ministry—all of those changes that you ever wanted and suggested and whatever are thrown in, and that it hasn't been understood. I don't believe the government actually has full ownership of all of the elements in here. There's just too much that's not thought through and, "We'll get to it another time with regulations."

A doctor presented before us last night who said that some of the changes in the Public Hospitals Act provisions and in the health insurance provisions are things that have been kicking around the bureaucracy for nine or 10 years, that he was aware of, that other governments, taking time, had rejected with the input from people from the community. I think it's because there hasn't been the time; I think this government too would reject some of these things if there was the time for proper scrutiny.

I'm frustrated about that lack of time. We've tried again this week, and we'll continue to try, to get the government to divide this up, but they seem bound and determined to move ahead with it as a package, to get it over and done with. It's too controversial, it's too big, and if they cut it again, then there's another political blow. So that's a problem for us.

We need in this short time to be working with groups around amendments that they see necessary. You were up till 4 o'clock writing the presentation; I know you don't have amendments ready. Can you, over the course of the beginning of January, start to formulate some of the areas that you specifically think need to be amended? I know your concerns, but what elements do you think would help address that so that the two opposition parties can take forward some of those ideas and put them into the legislative language and table them?

Ms Sutton: I think that's reasonable.

Ms Liz Iwata: I think that's a wonderful suggestion. There's only one downside to that, in that we have confined our presentation today to the IHFA and the amendments thereto. The difficultly is going to arise when one looks at the interaction between all of these pieces of legislation. There are going to be huge holes that no one has anticipated when they actually take a look at how one piece of an amendment affects one act in concert with another one. Until that has really been evaluated and the implications of the changes made in the relationship between the acts have been studied adequately, then I don't think this government is ready to move ahead with such a massive change so quickly.

Ms Sutton: We'd certainly be happy to—

The Chair: Thank you, Ms Lankin. We have to go on to the next questioner. For the government, Mrs Ecker.

Mrs Janet Ecker (Durham West): Thank you very much. I think you've got an excellent presentation, given 4 am in the morning, and I certainly appreciate the comments that you have brought forward. I'd just like to echo the invitation of the opposition to bring forward amendments that you would like to see. The purpose of public hearings, as it is for all legislation, is to put forward things that may or should be changed, and the government is certainly prepared to consider amendments that are put forward.

I guess a couple of quick points: When the Independent Health Facilities Act was brought in originally, there were for-profit centres that were grandfathered in. The other thing is the point that one of the restrictions in the Independent Health Facilities Act as it got up and running was the fact that because it was limited to insured services, there were a number of procedures that were occurring out there that were outside of that umbrella, where quality control of what was being provided for patients and consumers was a serious problem. So one of the things that this does allow, as I understand it, the government to do is to extend the quality control procedures into other kinds of facilities, which I think would probably be an excellent thing.

I recognize your concern about the birthing centres. I know midwives offer a very unique and different experience, a choice for mothers that is different than what has traditionally been available in hospital birth wards. My understanding is that hospitals—some hospitals, not all—have made great efforts to change the way they provide birthing services within their walls, that many hospitals provide privileges for midwives so that you can practise there and that at the same time the extension of midwives has allowed many women to have home birth choices which they never had before, which I think many, many women appreciate.

At a time when we're being faced with the challenge of having to shut down hospital wings or hospitals, or whatever, how do we justify, when we're trying to maintain the services, at the same time establishing freestanding new facilities?

0930

Ms Sutton: Let's start with the fact that, for example, the Toronto DHC proposal contemplated the inclusion of the Toronto Birth Centre; it certainly didn't exclude it. It never had any second questions about its existence when

it made the kinds of recommendations to the government with respect to hospital closures, and of course we need to see how that all is going to fall out.

If you look at births—and I challenge you to compare that to any other procedure, if I can use that word—births don't simply invent themselves to serve the needs of procedural service. Births are a static number; you cannot increase them. As you close hospitals, you will be looking for—and certainly there are indications that there are going to be less interested attitudes among, I think, some professionals, obstetricians, if there are insurance crises involved and that sort of thing as well.

Births moving out of hospitals can go somewhere else. It's very simple—and this is what absolutely astounds me about this government's decision—to put it in a facility that costs less. From the standpoint of all those startup costs that we keeping being hammered about in terms of justification for these facilities, they were virtually paid for.

We would save somewhere between \$600 and upwards of \$2,000 per birth by simply taking a portion of an existing number of births and downsizing the cost of those births. This is a saving process, not an expenditure process.

The Chair: Thank you, ladies. We appreciate your interest in our process and your presentation.

SMITHKLINE BEECHAM PHARMA

The Chair: Our next group, representing SmithKline Beecham, Alan Davis and Pam di Cenzo. Good morning and welcome to our committee. You have a half-hour to use as you see fit. Questions, if you allow time for them, would begin with the New Democrats. The floor is yours.

Dr Alan Davis: Good morning. Hopefully we'll keep the presentation reasonably short so there's enough time for questions.

Thank you for the opportunity for presenting today. My name is Alan Davis. I'm the director of national accounts and managed care for SmithKline Beecham, and this is my colleague, Pam di Cenzo, associate director of the same department.

Our head office is located in Oakville. We are one of the top R&D companies in Canada, so we feel we have a large investment in this country, so to speak. We employ close to 350 people across Canada and a large number of these are located in our head office in Oakville. We span the entire range of research capabilities, from antibiotics, central nervous system products, vaccines to anti-inflammatory drugs and tissue repair drugs.

Our experience in Ontario is quite extensive, given that a large percentage of our R&D is spent in this province, and we spend approximately \$1.7 million of our national R&D at the current time, which is 25% of our total expenditure.

Most of this research spending is in the traditional pharmaceutical products, but we are expanding beyond that. We are trying to take research and development into the 21st century from the point of view that we have a large investment in genetic research. We have the world's largest gene-sequencing group. Human Genome Sciences are working in the US to develop gene-sequencing data

which will help us to develop pioneering drugs and diagnostic products into the 21st century. We believe efforts in this area will result in long-term lower costs in health care as people become more comfortable with prediction of genetic disorders.

We're also involved in expanding our domain, if you like, through development of health information management and services. Through our acquisition of Diversified Pharmaceutical Services, which is a US benefit management company, a drug management company, we've been able to develop tools for delivery of cost-effective quality health care. We're all involved in health care delivery, and I must emphasize that in this particular company the focus is first on quality and second on cost. We believe that's the correct priority.

We believe that to be successful we need to develop excellence in not only treatment and cure of diseases, which is where the major thrust of pharmaceutical investment is at the moment, but also prevention, prediction, diagnosis and patient management. Only when you've got that complete spectrum of capabilities do you really look after total health care.

As a consequence, we believe that no single stakeholder can achieve excellence in that realm. We need consultation and participation from all stakeholders, and that is an important aspect of our presentation today.

We want to move to specific comments on the question at hand today. They are comments which we'd like to restrict to schedule G, which is "Amendments to the Ontario Drug Benefit Act, the Prescription Drug Cost Regulation Act and the Regulated Health Professions Act, 1991." We want to address three particular issues: deregulation of pricing, introduction of copays and linkage of reimbursement with prescribing guidelines.

In general, we are very supportive of attempts to deregulate price in the private marketplace. As an industry, we are very heavily regulated. Most aspects of our business are indeed controlled in some way or another. We further commend the Ministry of Health for eliminating the current practice of offsets, which has been a very non-transparent activity and caused considerable uncertainty in our dealings with the ministry.

We are committed to the introduction of new, improved therapies for patients suffering from disease, a process based on pharmacoeconomic analysis. "Pharmacoeconomic analysis" is basically a long way of saying: "What is the best bang for the buck? What can we deliver? What are we going to promise we can deliver and how can we justify that?" Only in that sense will we get the quality first and the cost-effectiveness next.

We also recognize this government's leadership in the movement away from silo budgeting and the removal of barriers for business while improving health care. We do not believe those things are inconsistent. Again, market access decisions for new products based on pharmacoeconomic assessment is a cost-effective way of doing business yet provides Ontario drug benefit patients with much quicker access to newer therapies. It's our position that generic products should also gain access based upon the same types of decision-making process.

While we support the direction of price deregulation, we want to identify that our patented brand-name prod-

ucts would not experience price increases in the Ontario marketplace. Unlike the generics, all brand-name product prices are regulated federally by the Patented Medicine Prices Review Board, which has been in place, I believe, since about 1987. This controls our pricing in the sense that new products are priced less than the price of products in a basket of comparative countries. That's one out of six European countries and the US.

The other test is that the existing products must not increase their prices year-on-year larger than the rate of inflation increase. This is an important aspect. Indeed, most prices have been frozen across the country for the last few years as a consequence of different provincial pricing strategies. Overall, SB has not raised its prices even to the CPI over the last nine years, demonstrating our commitment to price control.

Our major concern, however, is the fact that the price that we set our products may not be the price that's actually delivered through to the consumer, and we have no control over those aspects. As a manufacturer, we will not be able to control the markup in pricing decisions of individual pharmacists under a deregulated environment.

In order to compete for lower dispensing fees, pharmacists may choose to significantly increase the markup on the prescription product to achieve pharmacy profits. This, however, would probably alter the consumer's perception on manufacturer's costs, because most consumers will not be aware that it's not us directly controlling the costs.

To avoid this practice, we recommend that there is some transparency in the process and that pharmacists be required to illustrate the breakdown of the cost components so that consumers will be adequately informed and be able to make a decision. Indeed, we believe that yesterday it was made clear that there is a regulation that could achieve this process.

A further pressure that manufacturers may experience is a demand for rebates and/or listing fees by third-party payors and suppliers. Our major concern here is that we have legislative requirements for other provinces that we have to adhere to. We have to deal with 10 different sets of regulations, and it's a very complicated set of affairs. As a consequence, we will not be allowed to enter into these arrangements without some price deregulation in other provinces, for example.

0940

Copays is an area where we believe there is not sufficient empirical evidence to validate whether copays serve their purpose or not. We are aware of research that shows an improvement in effective use of health services when users are required to contribute. However, we are concerned that introduction of different copays for different classes of persons or drugs will be inherently—"unfair" is probably the word—in the sense it may skew the effective, efficient use of health care resources. There may not be an easy way to validate why one particular therapy class may receive a higher copay than another. That has to be based on pharmacoeconomic decisions, not purely arbitrary decisions.

Differential copays could result in inappropriate drug therapy choices by either the patient or the physician, depending on the different levels of understandings. Any skewing of efficient use of health resources in the drug area will of course impact on drug costs in other areas. The last thing you want to do is to introduce copays that discourage patients from making the most effective use of drugs and end up incurring costs in other parts of the system like hospitals.

We're interested, therefore, to learn what the process would be for the determination of differing copays in the therapeutic classes selected. As a manufacturer of a broad number of therapeutic classes, we have extensive access to clinicians', academics' and patients' therapeutic experiences as one of our series of expertises we bring to the table. We wish to offer this expertise as a resource to the government's activity in the development of policy in this area.

The last point that we want to bring across is the linkage of reimbursement with prescribing guidelines. It is proposed to develop prescribing criteria that must be met in order to reimburse a given drug product or therapeutic class.

SB as a company is committed to the development of products or services that permit attainment of optimal therapy. In fact, we purchased our Diversified Pharmaceutical Services subsidiary in the US in order to develop these particular programs and services that allow proper usage of prescribing guidelines but at lower costs than current practices.

The simple thing is we believe that the right drug must be for the right person at the right time. It's a very simple statement. How do you achieve that? The way to go forward is not short-term; it's not easy. The right system must be in place to monitor the appropriateness of use, and we believe that the linkage of guidelines to reimbursement is the correct system to use. We have demonstrated with our experience in the US that intervention by the pharmacist and/or the physician can reduce inappropriate usage and create cost savings of about 25%. We have the data to support that using our current systems in the US.

The way to do this is through information technology, sharing of patient data among the care givers so that everybody is provided with the best information at the best time, because if there is an inappropriate linkage of prescribing guidelines for reimbursement, you can threaten optimal patient drug care, and the physician intervention process and their cooperation is also threatened. We believe that physician intervention with a patient must be encouraged and nurtured and empowered, as opposed to being controlled by outside sources.

In consequence, we feel cost savings can best be achieved through intervention systems using comprehensive data and intensive information technology networks in pharmacists' and physicians' offices, linked electronically, not through linkage to reimbursement but through linkage of data to make sure that every care giver is given the best possible information.

In summary, we're pleased with the direction of the ministry's reforms. Deregulation of pricing will create a fair, competitive market for the pharmaceutical industry. Competition is the best way to lower prices. Control of prices in Canada has been restrictive and has probably kept prices up in the past.

In turn, consumers will have an opportunity to benefit from this climate, provided that pharmacists do not offset lower dispensing fees with higher product markups. We believe regulation requiring the pharmacist to display the different components will alleviate this concern and be in the general spirit of transparency.

While we have some initial concerns about the interaction of differential copays and the proposed linkage of reimbursement with prescribing guidelines, we are confident that the government's collaborative approach with all stakeholders will allow for the mutual resolution of delivering high-quality drug programs at a lower cost. We do not see those two as inconsistent.

We offer our policy and drug expertise to facilitate solutions and we look forward to working with you in the development of new regulations and the redesigning of our current health care system.

Ms Lankin: I appreciate your presentation and your company's contribution to the economy of the province. As an R&D company, it's an important addition in the pharmaceutical industry. We're always looking for more in that area. I think SmithKline Beecham is a company we all are proud of.

Your presentation, and I'm sure you know this, is very similar to Eli Lilly's and Glaxo's, and your colleague was here yesterday with the PMAC Ontario presentation. So the industry really is speaking with one voice with respect to these reforms. I think most of the positions are very understandable.

The area that has raised the most concern, of course, is with respect to the deregulation of non-ODB drugs. I want to explore that with you a little bit. Let me say that I'm not committed to the regulation from an ideological perspective. I think in most areas, telecommunications for example, I've come to believe that competition is important and that it can lead to innovation and lower prices.

When you're dealing with drugs, and drugs becoming more and more a therapeutic alternative to institution and surgery and more invasive therapies, and in a system where we have a desire for universality of access, it's really important therefore that we know what we're doing here and that we know what the implications are. I'm having trouble understanding the argument that is put forward, that the companies are making, that competition here is necessarily going to bring down prices. First of all, if the regulation has artificially held prices up, why wouldn't the industry be embracing that? That would mean there would be higher profits for the industry. What is it about the competitiveness between companies, and particularly when many companies have unique brands, that are in different areas that you're looking for?

Secondly, Eli Lilly told us that it expected the Ontario government would simply adopt the federal Patented Medicine Prices Review Board prices. We know those are in a sense a maximum price. The ministry seems to be of the belief that there are going to be very tough negotiations and that as a very large buyer in terms of the ODB program, that will drive the price down.

If they're going to get rock-bottom price for the biggest user or customer of yours, how do you make up that profit that you're going to lose? Isn't there going to be the necessity for you to start to move away from one

price to differential prices, one for the ODB and one for the non-ODB market? When you get to that point and individual insured companies or whatever—large group plans—want to negotiate with you, is it likely that you could end up having a different price there than you do with the small independent pharmacists?

I understand the point you're making about the markup, and I think that is another issue in small, rural Ontario where you only have one pharmacist, where it's essentially a monopoly, and that markup could be very high; I agree with that point. But just on the drug price, is it not possible that we're going to see the industry move away from what has been, I think almost by necessity because of regulation, the one price, to differen-

tial prices? What impact might that have?

Dr Davis: Those are excellent points. I'll answer your first question first. There is one comfortable aspect with dealing in a very regulated environment, and that is that you know the rules. With a combination of PMPRB, the patented price review board at the federal level and all the provincial pricing strategies, it's easy to set your price. What happens is that when you launch your product, you go to the patent board in Ottawa, the price is negotiated basically and it's seen that it's set at an international level; then that is your price and that stays like that because prices are frozen across the country. It's very easy: You bring in one price and you leave it like that forever. That's cost-saving in itself in the sense that things are frozen and you don't take hardly any inflationary increases.

That's a very comforting environment. What you see is that when you remove that environment, first of all at the provincial level—and we have one province now attempting to break away from that—we're going to see a fragmentation of the industry in a sense, because that's a very scary thought for somebody who has lived in that environment for some time.

0950

For somebody who's been used to having a very predictable price now to say that we're going to have to get into serious negotiations with our buyers is not a known paradigm in this industry. That's the challenge for the industry. Now we've got to behave like a real business and we've got to compete on the basis of our products. We have to say that our products are an important part of the system, but we've now got to prove it.

The trick on us is now to develop the necessary data to be able to come to the province and say, "We believe this will deliver these cost savings to the system and we'll prove it." We don't have that at the moment because we don't have the information technology system. That's where we believe the partnership needs to come. We need to share the data that's available within the provincial systems so that we can generate the interpretation of the data to say: "This is where our drug fits in. This is how much it's going to save in various parts of the system." Then you can come up with an appropriate price, based upon those known facts.

Mrs Helen Johns (Huron): Thank you for your presentation. I appreciate your information. I'm going to just try and follow through on Ms Lankin's questions.

The speculation on the pricing I think is important to all people in Ontario. It's important because people pay for drugs themselves, plus they pay through their tax dollars for the cost of the ODB drugs. People have to understand the whole effect of what's going on here. Not only are we paying for our own drugs, we're paying \$1.3 billion for drugs through our tax dollars.

From the standpoint of the tax dollars that people pay for the ODB whether they utilize it or not, what's likely to happen with the price that the government, through the Ministry of Health, is able to negotiate on the taxpayers'

dollars?

Dr Davis: In the medium to long term, the prices would likely vary according to the value of the delivery of the drugs. If we have a very good break-through product, then we deserve a better price for it. If we have a me-too product, we deserve to be thrown among all the other me-too products and compete like heck in terms of pricing. That's the reality. How it pans out will depend a lot on how the ministry approaches that negotiation process.

Mrs Johns: What happens to me as the consumer who doesn't have a drug benefit plan? Do I pay more for my drugs because I can't negotiate a fuller deal?

Dr Davis: What's going to happen in the private sector is that we believe there will be other vehicles which will help the individual consumer. The third-party payors: If, for example, prices in the private sector do rise as a consequence of the fact that pharmacists will try and recover their benefits, the third-party payors will receive pressure from employers, whose premiums will start going up. The third-party payors will start to say, "What could we do to decrease these prices?" and they will engage in the same negotiations as the ministry would take on.

We believe there will be some price pressure on the private sector as well. For example, the organization we have in the US, Diversified Pharmaceutical Services, does exactly that; they negotiate on behalf of employers with the manufacturers.

Mrs Johns: Okay, so that's someone who has a drug benefit plan you're talking about now. What about the individual who doesn't have any of those things, doesn't have a plan, isn't on ODB and basically pays for their own drugs?

Dr Davis: That's where the element of transparency comes in, I believe, in terms of they need the best tools to be able to shop around the different pharmacists, because that's where the price will vary, at the individual pharmacy level. There will be large chains, for example, which we believe will be very aggressive in keeping their drug prices down to draw people into their chains. The Shoppers Drug Marts, the Wal-Marts of the world I believe will provide a superior service as perhaps a loss-leader or whatever.

Mrs Johns: Do you agree that the prescribing guidelines linked to clinical criteria are properly developed, ie, in consultations or preventive health problems and hospitalization that can be caused by inappropriate use of medication? Tell me the costs associated with inappropriate use of medication, how this may resolve some of those problems in schedule G. **Dr Davis:** There has been a recent study we've commissioned which basically shows that the cost of inappropriate prescribing is probably the largest single cost of disease around. Probably we could save 25% in terms of drug usage overnight by reducing inappropriate usage. We've got these figures from the US evidence. Inappropriate use is a significant component, and prescribing guidelines is one way of doing it if used appro-

priately.

Mrs Caplan: I'm going to make a comment. I want to thank you very much for an excellent presentation and also for your very frank comments. What I heard you say—and I don't think they were the answers the parliamentary assistant expected—was that the result of this legislation is tremendous uncertainty: uncertainty around the price the government will be able to negotiate for the ODB: uncertainty of the effects for other drug plans from third party payors—in their desire to keep premiums down, they could well delist and push that into a place where individuals will have to pay more and more for drugs even where they have drug plans, and again, uncertainty around what the prices may or may not be that they can negotiate; and the last one is the effect on independent pharmacies and those individuals who have no insurance plans—we know that's about 20% of the population—especially those in smaller towns where they may not have access to a larger chain. They could see their prices vary dramatically and not have the ability to shop around. I would ask that you comment on that.

I guess the other concern I have is that in that aspect, there's nothing there that's going to lead to optimal therapy or the elimination of inappropriate prescribing, is

there?

Dr Davis: I want to say that uncertainty is not something to be afraid of. Uncertainty in this context is basically creating competition. Let me be careful how I phrase that. Competition is working in an environment where you're not really sure what's going on, where you've got to compete aggressively. If you live in a regulated environment, everything is predictable. By bringing in competition and raising uncertainty, what you're doing is opening the environment to cost-saving efficiencies.

Mrs Caplan: My colleague would like to ask you one

further question.

Mr Rick Bartolucci (Sudbury): Mr Davis, presenter after presenter has come to us and said that they weren't consulted, that there wasn't the collaborative approach you alluded to several times during your presentation. Are you the exception? Before amendments to schedule

G took place, were you consulted?

Ms Pam di Cenzo: I think we all recognize the process when it comes to public policy and the development of legislation and the need sometimes for confidentiality or privacy prior to a public announcement. In that sense, we weren't consulted prior to the omnibus legislation being introduced. However, I think as PMAC and also as individual companies, we've established a good working relationship with both the senior bureaucrats in the Ministry of Health as well as with the office of the Minister of Health.

On that point, a lot of these issues had been clearly delineated in meetings with Jim Wilson, as PMAC as well as SmithKline Beecham, and I think also we were able to present our positions through written communications. In that sense, a lot of our issues have been represented, and although we weren't involved in the process immediately prior to the introduction of the legislation, we also recognize the nature of public policy in that development.

Mr Bartolucci: You know, Ms di Cenzo, you are unique, because everybody else has been shut out almost in entirety: birthing centres, OMA, OHA. There are so many people who feel excluded from the process. Consider yourself very, very fortunate. You are in a very

unique position with this government.

The Chair: We appreciate your attendance this morning and your interest in our process. Thanks for your presentation.

Mr Clement: Mr Chairman, I am in possession of a response from the ministry to a question asked by Mrs Caplan regarding physiotherapy services. Can I table that with the clerk?

The Chair: We'll have the clerk pass those around.

PARKDALE COMMUNITY HEALTH CENTRE

The Chair: Our next group is from the Parkdale Community Health Centre, represented by Frumie Diamond and Almerinda Rebelo. Good morning, ladies, and welcome to our committee. You have a half-hour to use as you see fit. Any time you leave for questions will begin with the government. The floor is yours. 1000

Ms Almerinda Rebelo: Thank you. Good morning. I do appreciate the emphasis on my name—sounds a real rebel; I'm not a rebel, just Rebelo.

Mrs Johns: He's having trouble with names all week.
Ms Rebelo: It's just the paper outside says "Alma Rebels." It sounds much more interesting.

Thank you for giving us the opportunity to come before you to share our views concerning Bill 26. I am Almerinda Rebelo. I am the executive director of the Parkdale Community Health Centre. With me is Frumie Diamond. She is our community health educator.

As a community-based agency, we are deeply concerned about the impact that this bill will have on communities such as ours. We serve a vibrant and diverse area of Toronto. We are deeply committed to ensuring that our community, as well as other communities in Ontario, have the resources and the ability to contribute to the betterment of Ontario.

Bill 26 will directly impact on the provision of health care service, and as such, we will focus the majority of remarks on those sections of the bill. However, we will also comment on the far-reaching and sweeping changes that are being proposed in this bill. We will address the latter point first.

Ms Frumie Diamond: We're going to start by talking first about the democratic process. The government's mandate to bring about change does not relieve it of the responsibility to ensure that changes are made in a democratic and fair way. This includes giving citizens the

opportunity and the time to critically analyse and have meaningful input into any bill which has such a profound impact on our daily lives. More specifically, many provisions contained within Bill 26 will erode our precious democratic systems, including the checks and balances put in place to protect democratic processes.

The bill gives sweeping powers to the ministers of Health and Municipal Affairs. Public consultation, consultation and negotiation with affected parties, with hospitals/hospital boards, with doctors, with the Ontario Medical Association, with pharmacists, with municipalities, to name only some of the affected parties by Bill 26, are all to be set aside. In most instances, the bill makes it clear that there is to be no appeal from the exercise of these powers.

The Minister of Health, it appears, will only enter into discussions with such groups as drug manufacturers and those privileged to be invited to submit proposals for establishing independent health facilities while excluding community participation in determining the direction of

health care provision.

The Conservative Party has emphasized the important role communities have in establishing local health care priorities, and yet what we see are communities such as ours being further excluded from the decision-making process. It is of utmost importance to protect all aspects of community participation, including the participation of those segments of the community with which the government may disagree.

I'd like to go on now and talk about patient confidentiality, which I think is schedule F, part IV. Schedule F, part IV, allows the Minister of Health to pass regulations "prescribing conditions under which the minister may collect, use or disclose personal information under subsection 37.1(1) and conditions under which the minister may enter into agreements under subsection 37.1(2)."

This provides the government with the authority to disclose personal information to any party it enters into an agreement with, including foreign-owned companies that are not subject to Canadian rules and regulations.

The relationship between health care providers is a sacred one and must be protected at all costs. The proposed legislation puts that relationship at risk and threatens the privacy, dignity and individuality of Ontarians. The fear that confidentiality may be breached will deter many patients from confiding in their caregivers about their most intimate problems, since they will no longer have the assurance that the information will not be shared with whomever the minister wishes. This will put our patients' health at risk, and providers may not have the full information with which to make treatment decisions.

We are aware that the minister has indicated a willingness to improve the protection of confidentiality of patient information. This is very encouraging and we urge and support the minister in pursuing this direction.

I'll go on now and talk briefly about the Ontario Drug Benefit Act, schedule G. The changes proposed in schedule G have potentially devastating effects for all low-income seniors, persons on social assistance and other people on fixed incomes. For instance, single persons with income below \$16,000 will be subject to a \$2

user fee for all prescriptions. For persons with incomes above \$16,000, a \$100 annual user fee will be levied. This is in addition to the cost of dispensing fees of up to \$6.11 per prescription.

The link between health and income has been well documented. Those with the least have the poorest health. Consequently user fees target those who are most ill and least able to pay. While \$2 may not seem like very much to those with adequate incomes, it will be a burden for those on fixed incomes. Very often, those people on social assistance and seniors on fixed pensions have multiple health needs and require a number of medications. The \$2 fee will add up quickly and people will be forced to choose between taking their medications or eating.

For example, a patient taking eight necessary medications will incur an extra \$16 per month in fees. In other cases, a patient who is suicidal may be prescribed medication on a daily basis and therefore would incur extra fees of at least \$14 per week. This is a not a policy designed to get people out of poverty and into jobs. Instead, it condemns them to a cycle of poverty and ill health.

To further worsen the situation, the proposed legislation would deregulate the drug industry, leaving citizens

unprotected from soaring drug prices.

Other solutions of dealing with the high costs of drugs would be far more effective. We support the Ontario Coalition of Senior Citizens' Organization's proposal to:

—Pressure the federal government to repeal Bill C-91,

the drug patent legislation.

—Enact legislation making it mandatory to prescribe and dispense generic drugs where there are no other contraindications.

—Negotiate with pharmacists to lower their dispensing fees.

—Address the issue of misuse and overprescription of drugs by educating both the public and the physicians.

In addition, adding user fees will add bureaucracy, something which the government is trying to avoid.

Ms Rebelo: I will continue referring briefly to the Independent Health Facilities Act, schedule F, part IV.

We are deeply concerned that changes to section 5 of the Independent Health Facilities Act will allow for the introduction of American-style, private for-profit companies to take over more of Ontario's health care system. Ultimately, this will lead to a two-tiered system of health destroying our beloved medicare. Opinion polls continue to show massive support for the five principles of the Canada Health Act: universality, accessibility, portability, public administration, comprehensiveness. The dismantling of our health care system was not mandated to you by the people of this province.

The privatization of our health care system serves neither the health of the citizens of this province nor does it demonstrate fiscal responsibility. It is well documented that the American health care system is far more expensive than ours, and it does not meet the health care needs

of millions of its people.

We also believe that it continues to be important to give preferential treatment to Canadian and non-profit, independent health facilities. This is another aspect that the new legislation would negate.

We must also comment on the seeming unfairness of giving "the minister discretion to specify persons who may send in proposals for a licence to establish and operate an independent health facility, instead of being required to request proposals from the public in general." This appears to be attacking very basic principles of fairness that must be fostered in any democratic society. This will leave the government open to potential conflicts

Another preoccupation that we have is the role of community boards. Bill 26, schedule F, part II, goes on to set up a system where the minister could seize control of community institutions for particular hospitals. This approach undermines the role of volunteers and their ability to maintain ownership and partnerships at community level.

There are other aspects of this bill which we have not had time to comment on that would adversely affect the health and wellbeing of Ontarians. The elimination of such things as safety inspectors, especially around mine closings, and the elimination of environmental hearings, especially around the issues of land use, will in the long run pose health hazards to the general population. In effect, the increase in environmental degradation will negatively impact on people's health and cost the health care system much more money. It also causes loss to industry through illness and loss of productivity. 1010

Short-term fixes, while appearing to deal with deficit issues, do not always make economic sense in the long run and will cost society more both economically and in

terms of human pain and suffering.

Bill 26 is too massive with far too many points to be adequately debated. We therefore call for the repeal of this bill and for the government to start working with the people of Ontario, even those segments of our society with which it disagrees, to build a better and brighter future.

The Chair: Thank you. We've got five or six minutes per party for questions, beginning with the government.

Mr Tony Clement (Brampton South): Thank you very much for your presentation; I enjoyed hearing from you. Let me just assure you that the government treats these hearings very, very seriously and certainly we are looking for advice from all sectors of the health care field on ways to improve legislation. In my limited experience in government, I found it doesn't matter whether you look at legislation for 500 days or for five days, there are always ways to improve it. So I'm quite looking forward to having that opportunity through this committee.

Let me also say that in my previous political incarnation, I did a lot of work in Parkdale in the community, including Parkdale community action. So I think I know a little bit about some of the special challenges, which can be overcome, quite frankly, in Parkdale and I recognize your group and certainly you've done your part as

well.

I have two specific questions: First of all, with your characterization of the Independent Health Facilities Act and the possible changes, you've painted a very bleak picture, and that's your right to do so. I wanted you to react, though, to something a doctor in my riding of

Brampton South said to me recently which was that he's a cosmetic surgeon and he'd like the ability to perform hand surgery in certain cases. There's a waiting list in Brampton of several months for hand surgery and he has had patients who have excruciating pain because they've been waiting for this service from the hospital. But because of allocation of resources and its elective surgery, it just gets to the bottom of the list all the time.

He thinks that, quite frankly, if he is given the opportunity to have an independent health facility in that area, even if there are people who are paying for it, that socalled two-tier system, what that does it is relieves pressure from the hospital. If there are people who can pay for it, they go to him and get excellent service; if there are people who don't have the ability to pay, they can go to the hospital and get excellent service because we have an excellent hospital in Brampton, Peel Memorial Hospital.

So from his perspective, he thinks he's actually helping the health care system. Even if it was a for-profit situation that he's actually relieving some of the pressure, some of the waiting lists, some of the queues inherent in the system, do you think there's any validity in that kind of view at all?

Ms Rebelo: I do understand the issue of the demand and the opportunity to offer a service and the fact that there are people who have the money who could pay. I understand that. I think the danger I see—it's only when we try to use examples like that to look across the health system and say that's then a good direction to go.

In my life, for 11 years as the director of the community health centre, I met actually with a number of people from the states. I had a recent visitor from Los Angeles who talked about actually some of the issues that affect the people in the area she serves who have to have actually community health centres funded by the government and by corporations and the foundations to be able to survive and relies on a team. She had a team of 20 volunteer doctors, doctors who go up to the section to work for what's called the indigent. So this is one example.

I'll give you another example. About a year and a half ago, I had six physicians from Vermont, in the States, who actually specifically came to visit me to talk about how the system works. In a particular community health centre, in a particular section of the city with a variety of issues to deal with, all of the six were desperate of what

they were actually seeing.

They were in private practice and they were under the HMO: for the ones who are not familiar, health maintenance organizations. They were fighting with an aging population of patients who actually were begging of them to cheat on their system so they could be able to be covered by the insurance companies. They were ready to move to our system then.

It's not that the point of the demand in a consumer society is valid or invalid. I think it's valid, if I could answer you directly, but basing public policy of something as sacred as health—because when you talk about conflict of interest, that's perhaps one of the areas we must protect. I will be concerned in trying to use that example to generalize a validity to the problem, to the issue.

Mr Clement: All I was trying to say is there is a demand for these services.

Ms Rebelo: I'm sure there is.

Mr Clement: If we can improve the health care

system, then surely you are not against that.

Ms Diamond: Maybe there are other ways of improving the health care system that don't introduce a two-tiered system like that, so that people who have money go to the front of the line and people who don't have money then still have to wait. I think there's also been evidence that when you do have that kind of a two-tiered system, it drains resources away from the publicly funded sector, so that the people in the publicly funded sector in fact end up getting second-rate care. I think that is the real danger about introducing that kind of a fee-for-service and profit within the health care sector.

Mr Bartolucci: Thank you very much for a very, very interesting presentation. We've heard from other centres and the concerns are certainly shared by the other centres. I guess I have a major concern here that I'm seeing that there could be some type of discrimination within the new policy, within the new legislation. Do you consider schedule G in particular to be discriminatory

against lower-income and seniors?

Ms Diamond: Yes, absolutely.

Ms Rebelo: Absolutely. I would like to tell you also that in Parkdale—Parkdale is a very proud community with a range of incomes and a range of people. We have a very active board of directors. They are totally in fear. I don't control my board. They're really active. They are the epitome of what we consider a very active group of people. They get involved in their own coalitions, and we get to know later on. They really wanted to make a point to any government, they understand, they are responsible. That's what I have seen there for 11 years of working.

They have a lot of fears. They believe they will be shut off, especially since Parkdale has this reputation for being a difficult area, and people usually ignore the struggle and the pride they have to make it a better community in every day of their lives. So that's there too.

Mr Bartolucci: Great, thank you. Another thing, and something that's common throughout the presentations, is that no one's opposed to deficit management. We all see it. Every presenter has seen it as being very, very necessary, but you can't only manage the deficit from a fiscal point of view. Do you not have to also ensure that the values are in place that will protect a health care system, and do you believe that there's a weakness in this legislation with regard to that?

Ms Diamond: Yes, absolutely, and I think that we said in our closing that in the long run it costs society both economically but also in terms of pain and human suffering. I think that those are immeasurable kinds of things and we can't put a dollar value on that suffering. Those are the things that we have to be looking at as well. Yes, you have to manage the deficit, but we also have to make sure that the people do not suffer because of that.

Mr Bartolucci: And you're given the opportunity today to present to us, but truly do you feel that you've been excluded from the process?

Ms Diamond: Absolutely.

Ms Rebelo: Absolutely. I guess my prior answer actually referred to the fear of the members of our community, both clients, patients and our board of directors. They are volunteers, they are there, and they expressed that. They have encouraged me to get involved as much as I could, just because they feel at least if there is someone who could get—the professionals who have an entry point, which is sad to say.

I would like to refer a bit to discrimination, because again there is a lot of fear around that our city may not be a city where we can live in. If I could put a personal comment, I am in Toronto for 20 years now. I love this city with a passion. I cannot bear the idea I may be about

to lose this.

And look at history. I appeal to the people in government: Look at history, look at the States. Look at what happened to the cities in the States. I had the privilege to be a tourist visiting in the 1970s Boston and areas like that—my parents immigrated to that area—and it's shocking. Now they are trying to revitalize that city, and we are trying to open it up by having a lot of what I call the discrepancy between the haves and the have-nots.

Your question addressed the issue of the price that we pay. It's an important responsibility of governments to take care of the budgets and govern adequately and properly. It's very important. You have total support for that. But I think Canadians are feeling very nervous, and anyone I talk to—and I tend to have a lot of people who have more conservative ideas around me who are hardworking people who really believe in discipline and control—they are totally in panic with the idea that we may have a long price for our children and grandchildren. So I just think it's important to put that appeal, and it's based on that.

Mrs Caplan: I guess the question that I have is about your real concern that you've expressed so well about the fact that what this bill really does is say, "We're not going to tell you how we're going to use any of these powers that we're taking." You don't know what the policy direction is, and in the name of restructuring, this minister and this government could do anything they wanted without further consultation. That creates a sense of powerlessness. Is that what I've heard?

Ms Rebelo: We need consultation. We need consultation with adequate terms. Actually the public, and personally, we need to have a sense that we have been

heard, not shut off.

Mrs Caplan: And this bill shuts you off.

Ms Rebelo: And needs to be efficient. There is also a sense of desperation when things go forever and results are not achieved. So we need to bring a balance to that and we need to do that with an ethics base on it. We are in Canada. As Canadians, we have a sense of duty to a lot of things that make this country so special.

Mrs Caplan: When this bill's passed, that door is closed.

The Chair: Ms Lankin.

Ms Lankin: I think you've touched on this point, but Mr Clement was asking you questions about, surely, if we are going to improve the health care system by these measures, then you'd be in favour of that. I think one of the things that's missing from the government's analysis is a whole framework of looking at things from the determinants of health. In fact, when we see the cuts to welfare, the doing away with housing programs, the limitation on pay equity for low-paid women, cutting back on access to child care, the negative environmental steps that have been taken, you put all of that together and from a determinants-of-health point of view, there's going to be a lot heavier demand on our health care system in the future.

I know that you've asked for the bill to be withdrawn and for it to be divided up and let's take a bit more time, and a lot of groups have asked for that. I think last night we were doing a count. Out of the some 70-odd groups that have presented already, I think only eight or so were supportive of the government's bill as it was proceeding, and even there some of those groups had some small concerns. Overwhelmingly people have said, "Split it up, slow down; let's look at these in pieces and understand them." However, I'm not sure that the government is going to listen, and we may end up having to deal in the third week of January with a huge number of amendments.

With that in mind, I'm wanting to ask you if you've given some thought to amendments to certain areas, and particularly I want to pick up on the concern of your board in issues around volunteerism and the role of community input into the process.

This government is undermining volunteerism in a major way with its ability to take over hospital boards and directing hospitals on a day-to-day structure, but more importantly, this restructuring commission that they're putting in place, there are no objectives, there are no goals, there are no guidelines, there are no criteria. It doesn't say what they're going to do, and there's nothing in the legislation that ties it to the community consultation process being led through health planners locally, like DHCs. Can you see that as an area that requires some amendments, and do you have any other thoughts with respect to amendments in this area that deal with volunteers and community consultation and community-led planning?

Ms Rebelo: We have not had the time to digest the whole bill yet, to be honest. That's the problem. But I know Frumie in her part, she really talks about the health determinants. A lot of my time right now is working with actual local hospitals trying to prepare for the overload of more problems that we have. These are serious partnerships we have. There are regular meetings and regular negotiations about how we can deal with the load. We talk about maybe having to increase urgent care. These are things where as a community health centre we still may contain some of the costs in the whole system.

But there is no question that we would like to be involved in the area of some of the points you raise. The issue of housing is a tremendous one, any avenues that you mentioned. Frumie, maybe you could refer—because you work with groups. People in the community really would like to be involved in some of these things.

Ms Diamond: It's true, and I think that the recommendations that you're making are very important and I think that we would suggest that there be very strict guidelines to the number of areas that you mentioned.

I'd just like to make one further comment: I think, Mrs Caplan, you mentioned the participation and I have to say we had very short notice with which to prepare this. This is a bill that's over 200 pages long and we don't have expertise. We're just a small organization and we really don't have that kind of expertise and it's taken the work of several staff members away from the other daily work in order to be able to do this. We don't have the kind of professionals and policymakers who look at these kinds of things in order to present a bill. So certainly we have not had very much time to look at this in detail and give it the kind of in-depth thought and research that it really requires.

The Chair: Thank you very much. The one thing I want to do, I would invite you to submit any further thoughts that you have in writing to the committee some time before we meet for clause-by-clause. I believe the deadline for those submissions is January 18, so any further information you'd like to share with us we'd be happy to receive and take into consideration.

Ms Diamond: Thank you. We just didn't have time to bring you the 30 copies that you requested, but we will do that.

The Chair: Thank you very much for your interest in our process. We appreciate your being here this morning.

Ms Diamond: Thank you very much for having us.

The Chair: The next presenter is currently presenting at the other committee and they're running about five minutes late, so we'll take a five-minute recess to have a cup of coffee.

Mr Clement: Mr Chairman, just for the record, I also have responses from the ministry with respect to Ms Lankin's questions around the earlier part of the hearings respecting responsibility of supervisors and the effect of section 8 on district health councils which I'd like to table.

The Chair: Okay, we'll have the clerk distribute those. Okay, a five-minute recess.

The committee recessed from 1027 to 1034.

CANADIAN ASSOCIATION OF RETIRED PERSONS

The Chair: Welcome, Lillian Morgenthau, from the Canadian Association of Retired Persons. We appreciate your attendance here. You have a half-hour to use as you see fit. Questions will begin with the Liberal Party at the end of your presentation. The floor is yours.

Mrs Lillian Morgenthau: I really would have liked to wait until everybody came, because anyone who has taken the time and effort to come should be heard. Of course it's kind of you to give this time to us.

Our position paper is one we feel very strongly about and of course would, because seniors and people over 50 can be put into different categories. We can put in those 50 to 60 as the junior seniors—they're the "sandwich generation," who have parents and children—those 60 to 75 as the middle seniors, and then those over 75 as the senior seniors. Seniors are not a homogeneous group. They're very individual, with very individual talents and abilities.

Allow me to introduce myself. My name is Lillian Morgenthau, and I'm president of the Canadian Associ-

ation of Retired Persons. CARP is a national association for Canadians over 50 years of age, retired or not. CARP is a non-profit association that takes no funding from any government and therefore is very neutral. Our membership is over 225,000, with about 140,000 members in Ontario. The aim of this organization is to improve and maintain the quality of life for Canadians over 50 years of age. We therefore maintain a deep interest in government programs relating to this age group.

This government was put into power by the voters of Ontario to reduce the deficit, get rid of bureaucratic albatrosses and to find workable solutions to complex problems. Mr Harris rode in on a wave of these promises, but also explicit promises of maintaining our health care system and the protection of seniors' programs, with no

user fees.

Bill 26 is a bill created in secrecy and delivered to the Legislature when members and stakeholders, myself included, were in a lockup awaiting the Finance minister's mini-budget. No information was released that this important bill was to be presented, let alone passed. How could any responsible government expect to pass a bill of 211 pages without time to study and assess it? We cannot but presume that the absence of members was a deliberate ploy by this government to ram through an obnoxious bill. Perhaps we should remind the majority members that the "d" in democracy does not mean the "d" in dictatorship.

"Slash and burn first, think later" is not the Canadian way. Omnibus bills are not new, but were designed to take care of loose ends and for clarification, not to grab new powers that allow ministers to play God. Democracy

is very fragile and must be protected.

This bill allows a minister to change or take over local boards and have no House debates on municipal restructuring which the minister can do by an order in council. Why do we need politicians if this can be done without them?

When asked about the changing of school boards without public debate or consultation, Al Leach, the Minister of Municipal Affairs, is reported to have said, "Quite frankly, I don't know." Neither did anyone else affected by this legislation. Education minister John Snobelen was equally at sea, saying, "Candidly, I don't know at this point." We feel that there should be time to find out what is in that 211-page document called Bill 26.

While CARP is concerned about several aspects of this bill, we will concentrate on the parts of the bill that will hit seniors and all Ontarians hardest: health care and its

many aspects.

1040

Let's look at the Ontario drug benefit program. CARP strongly supports open and timely access to new medications. We believe that the trend by the Ontario drug benefit program to delay and not list new theories may save costs only in the short run, since without these medications, costs will rise in other areas of health care such as increased physician and emergency room visits and longer hospital stays. In addition, many seniors depend on new medications to keep them active, mobile and in their own homes. CARP believes that timely access to new drugs is one of the most cost-effective

means to control health care costs. We are concerned that Ontario is the slowest province to approve drugs for the formulary, drugs which are covered in other provinces—Proscar for one. To speed up the process, duplication between the federal and provincial approval systems must be eliminated. These layers delay the access of seniors to new medication.

Our view is simply that once a drug has been passed federally, it would save millions of dollars to accept their findings and pass it provincially. Duplication of this kind between federal and provincial areas costs millions. It is almost monumentally difficult to get a new drug on the formulary. Generic drugs, though cost-saving in most cases, must come after patent drugs. These drugs may be cost-effective, but are not up to date. There should be choice. At least let us give an option to the patient.

If we can save one day in hospital by use of a newer drug, let's do it. Let's have healthier patients and save

costs by keeping patients out of the hospital.

We also believe that appropriate use of medications is critical. Overmedication and inappropriate utilization of medications by seniors is a serious problem. We support any programs aimed at ensuring appropriate use.

CARP recognizes the cost constraints faced by the Ontario government and the Ministry of Health. We understand that copayment systems have been implemented in many provinces to try to control rising drug budgets, and that Ontario is considering implementing a copayment or deductible for the ODB program. CARP is concerned about any fee which may deter seniors from

receiving necessary prescriptions.

We oppose the new regulations governing the Ontario drug benefit program whereby low-income seniors and welfare recipients would pay a user fee of \$2 for every prescription, and single seniors earning more than \$16,000 or senior couples more than \$24,000, which is the poverty level, will pay the first \$100 plus \$6.11 per prescription. The threshold, in our opinion, is too low. Moreover, unlike other provinces there is no maximum beyond which seniors will not have to pay. We would like to see a higher, more realistic threshold and a maximum set.

We understand the fiscal pressures facing the Ministry of Health as the government tries to balance the budget while still delivering quality health care services to Ontarians. CARP believes that there is enough money in our health care system. The problem lies in how it is spent. As changes to our health care system are made and with our members disproportionately high users of medicare, CARP is concerned about the impact of changes to health care on Ontario's seniors.

Mr Harris himself said that annually Ontario pays out over \$640 million on health fraud. We sent in a brief in which we suggest that there are recommendations to overcome this. I would suggest that you read that brief.

Hospital restructuring: CARP is concerned about the recent recommendations of the report of the Metro Toronto District Health Council's hospital restructuring committee, HRC, to close six acute-care hospitals in Metro Toronto, as well as other hospitals that are not acute-care. We disagree with the recommendations to close the Northwestern, the Orthopaedic and Arthritic and

the Branson hospitals, and are concerned about the negative impact these closures will have on seniors living in the affected areas.

We recognize that a lot of time and study went into the preparation of this report undertaken by the previous, NDP government. However, care of the elderly in Metro Toronto was not identified as one of the key groups to be served. With approximately 225,000 members, CARP represents a sizable portion of the fastest-growing segment of Canada's population. It is our understanding that the HRC did not seek specific input from the geriatric medical community during the writing of the report and its recommendations. We sure were not asked and we're a big group.

CARP believes that instead of closing the Northwestern General Hospital, it should merge with the Humber Memorial Hospital and serve patients on two sites instead of one. This would achieve cost savings through the merger and rationalization of services but would continue to ensure quality care to seniors and other patients.

The Humber is in a secluded residential area, difficult to get to by transportation other than by automobile. As a matter of fact, I tried and I just couldn't get there. There was waiting room and standing room for the transportation and so finally we went by car. We had to find our way round and round to find a parking lot. It is a very good hospital, but it's on the wrong site. An expanded Humber with increased volume of ambulances, patients and staff would encroach even more on a community not willing to accept the noise and activity that would destroy its area even more.

Northwestern, on the other hand, is on a main street, Keele Street—easy transportation—and with Harold and Grace Baker Centre, a retirement and long-term-care centre built next to Northwestern for availability of care. We must not disregard this. This can be compared to the Baycrest Centre concept. It also has a building that was built specifically to add three extra floors to it and would be a lot cheaper than trying to build a new building over at Humber. That's why we suggested two sites and let them decide which way they want to run.

It's imperative to allow the hospitals to have their own discussions. The hospitals should be allowed to negotiate possible mergers or alliances, based upon some of the recommendations of the report. To this point, the hospitals have not had any input into recommended mergers, and their involvement is essential for a better health care plan. In many cases, there are better options and better alliances. Let's look at Wellesley and Orthopaedic. I think we have to give them a chance to do their own planning and not destroy a community.

In addition, CARP does not support the recommendation to close the Orthopaedic and Arthritic Hospital and to move their services to Toronto East General Hospital. The O&A is a centre of excellence for—oh, how does one say this word? Come on, help me. Come on.

Mrs Caplan: Musculoskeletal.

Mrs Morgenthau: Musculoskeletal—that's it. Sometimes, you know, as you're reading along—

Mrs Caplan: I know, they're hard.

Mrs Morgenthau: After all, I'm older; I'm a senior. You have to give time to that, and allowances. I left my wheelchair outside.

It provides care to seniors from across the province, not just Metro Toronto. Its expertise should be recognized and in fact could be expanded by taking on the orthopaedics from the Wellesley Hospital, also slated for closure.

Wellesley has been the community centre of low-income areas for decades. These people will find it horrific to find ways to get to Toronto East General. Have you ever tried it? I tried these things. You know, before I came, I sort of tried these things out. It would be great if we all did it together. You need about four different transfers to get from the Wellesley Hospital over to East General. Of course, these people do not have cars. They're a very low-income area. Again, the poor are the losers.

1050

This would make more sense than transferring the Wellesley's orthopaedics program to Sunnybrook, if we would have the Orthopaedic and Wellesley hospitals together. The O&A is a much more convenient location for seniors than Sunnybrook.

Women's College Hospital is a unique facility with a culture all its own. The facility is known throughout the province for looking after neo-natal babies—see, I said that one right. A study was done on this a few years ago. It was decided another facility was needed in this area, and Mount Sinai Hospital was selected.

Women's College Hospital has a world-renowned reputation for meeting women's needs; it was created for that. It has a large volunteer organization devoted to the hospital. All my four children were born there. It's a good hospital. I'd hate to see it leave. It behooves us to look at this facility again. It would not be in the best interests of this city to lose this hospital.

Finally, we believe that Branson hospital should be retained because without its presence there'd be no hospital to serve seniors between Leslie and Jane in north Toronto. The York-Finch hospital is too far away. There is a notable movement to North York General Hospital for the patients who went to Branson, and if this continues, North York will be overwhelmed.

The Chair: Could I interrupt just for a minute. I'd just kind of make you aware of the fact you've got about 12 minutes left. If you want to allow some time for questions, I just want to make you aware.

Mrs Morgenthau: You cut me off. I get 12 extra minutes. You cut me off.

The Chair: No, no, I am giving it. I just wanted to make you aware of the time so you could make a decision about whether or not you wanted to continue your presentation or leave some time for questions. It's your choice.

Mrs Morgenthau: There are a couple of things that have to be done. I think that we should continue.

The Chair: I just wanted to make you aware of that. Mrs Morgenthau: I want my extra 12 minutes.

The Chair: I'm giving you all the time.

Mrs Morgenthau: I won't give you an inch.

CARP disagrees with the recommendations to close these hospitals because of the negative impact the closures will have on the treatment and care of seniors, but also because of the amount of knowledge base. We'll lose all the medical expertise of the staff that's there. They'll either go on unemployment and then, when that's through, they'll go on welfare and then they'll be on top of the Ontarians for their tax base. It's not a good idea.

Let's go on. It's our understanding that the ministry is currently involved in negotiations with the Ontario Medical Association regarding the payment of physicians. CARP encourages a more cooperative relationship between the OMA and the ministry. As a matter of fact, we understand that the government is thinking of doing away with the OMA. This would be very sad because it would indicate that this government is not interested in meeting the head of a group that has designated the OMA to be one of their spokespersons. If they're not going to meet with the OMA and they're going to make their own decisions, and the minister decides this, that and the rest, then that's not the Canadian way.

Discrimination of the elderly is a subtle new invention. The elderly are at risk because the standard to get people out of the hospital is paramount. The magic age of 70 may allow them an extra day, but then out they gowhere is not important. We have to recognize we have an aging population. Every acute care hospital has a significant number of beds that are being occupied by patients who shouldn't be there and can't find a bed elsewhere. They should be in nursing homes or retirement homes.

It would make more sense to keep the hospitals and make several of their sections ALC—more cost-effective and not requiring capital investment. The bricks and mortar are already in place. We can keep a functioning hospital available in the community. Voters are happy, costs are down and you open up services that your voters will cheer and that cost less. Everybody wins.

Because seniors are crippled doesn't mean they can't get to the voting booth. I would suggest very strongly

that you keep in mind that every senior votes.

We feel that the members of Parliament will go to the head of the emergency line when they're ill, get a private room and, after they're no long an MP, special treatment will not be available. It also will not apply to their children and grandchildren. Short-term solutions make long-term debacles.

What concerns us most of all is the fact that the process of appeal is unbelievable and unfair. In medical areas there's no appeal and in other areas the appeal would be expensive and may be determined to be frivolous and therefore not acceptable. Furthermore, and I quote from the book, "No proceeding shall be commenced against the crown or minister or a person appointed by the minister," is part of this bill. Where then is the government's responsibility if there's no liability? Even Brian Mulroney, a Conservative, is able to sue the government. But not us? Responsibility for actions must be part of anything we do. Immunity is not acceptable and will not be tolerated.

A frightening part of this bill, which you will find on page 68, and I quote, will allow the minister to "collect, directly or indirectly, use or disclose personal information for purposes related to the administration of" various health acts "or for other prescribed purposes." What other purposes does he have in mind?

In practical terms this means that the minister can send someone into a doctor's office or a hospital office and take out a patient's file without a court order. As we know, that file, regardless of promises, may be leaked somewhere along the road. This is a direct attack on your privacy and cannot be tolerated. The doctor-patient relationship must remain privileged and not subject to bureaucratic snooping or harassment.

On pages 54 and 55 of Bill 26 we read that the minister has the power to direct the board of a hospital to cease to operate, to remove any staff or physician or facility. In plain language, that means the minister will be able to close hospitals, force the board to hire of fire, regardless of the wishes of the board, staff or public

served by that institution.

At the same time, this bill gives the minister the power to "refuse the application of any physician for appointment or reappointment to the medical staff or for a change in hospital privileges" of any doctor without due hearing, and the board, obeying the minister's instructions, cannot be held liable. One man alone will have such power. Frightening, isn't it?

This bill allows OHIP to charge back any fees for tests they feel were unnecessary, but makes no provision for liability if tests are not ordered by the doctor because of restrictions. Who is to decide what tests are necessary: the bureaucrat, a disgruntled competitor or a computer? If the patient and doctor feel it is necessary, that's the criterion and should be good enough for others.

It's time to stop doctor-bashing and start to doctorvalue. We have already destroyed health care with the interference of politicians who have used the health care system as a political step up the ladder. The result of their climb has been long lineups for operations, new babies and their mothers thrown out of hospitals within six hours in Scarborough or, if lucky, 24 to 48 hours at other hospitals. From experience, I know babies develop jaundice after this and new mothers don't recognize the problem.

This bill allows government to take over the day-to-day management of hospitals of which they have no knowledge, and if they're going to appoint people, we are faced with more bureaucracy. So where are the savings? This bill will encourage patronage, and we don't need that. It will allow the licensing of clinics and other health facilities and removal of that licence at any time without regard to the expenditure of the owner—no recourse. In other words, a radiologist may set up hundreds of thousands of dollars' worth of equipment to set up an office and, without any explanation, be closed down, losing everything. This would definitely encourage patronage. 1100

It allows the minister to appoint a supervisor whose power supersedes that of the hospital board, a corporation, religious communities. It allows him to do away with the Salvation Army, the Sisters of St Joseph, any board. Such organizations in the past have provided great, great wonders for this community.

The refusal to make a contribution to the Canadian Medical Protective Association, which provides doctors' malpractice insurance, will certainly deter doctors from delivering babies, taking on high-risk but necessary

surgical cases or provide anaesthesia in rural settings. In many areas it is almost impossible to get doctors to work in these stressful conditions. Right now, patients are too often being removed out of intensive care units when they should do better remaining a few more days, simply because the bed is needed, while sections of every hospital are available but closed for lack of funding.

Unreal, isn't it? If we allow finances to be the driving engine of health, we deserve what we get: cheap, inexpensive, bargain-basement health care. CARP members

won't accept this. Why should you?

Government in a democracy, which I hope we still have in Canada, does not have the right to interfere with and dictate an individual's way of life. I've great respect for Mr Wilson, our Minister of Health. However, once this monumental power is established it will be there for future ministers. You know, today he may be Minister of Health; six months from now he'll be the Minister of Transportation. Ministers move as the cabinet moves and we don't know who we're going to get up there.

It's wrong to give that kind of power. A little bit of power is a dangerous thing; a lot of power corrupts. We shouldn't tempt our ministers. Let us go back to checks

and balances.

I realize this is a majority government of 82 members, but I wish to remind this government that most of its members are new and should be given a chance to grow within the system and become acquainted with their

constituents' feelings.

The Minister of Health, as I said, may be there tomorrow or may not. Take the bill apart, or, as one big general said, "You know when you should retreat." I think this bill should be taken off and brought back with its good points, and that we would support. We are a large seniors' group but we were not asked to sit on this committee. We want to help and we want to have input and I hope you'll let us.

I'm not going to do the financial considerations, because we don't have it. It's all here—the costs. I'm glad we're saving Western. I hope we'll save others, because we're going to need them and I think there are other and better ways of doing it and still save costs.

I'm sorry to have taken so much of your valuable time

but I think it's important.

The Chair: Thank you very much. You've taken exactly what you were allotted, and that is 30 minutes. We appreciate your interest in our process and your being

with us this morning.

Ms Lankin: Mr Chair, could I ask, given the size of the membership of this group, if we had unanimous consent for one quick question from each of the three parties. We only have two other groups before lunch. It would eat a little bit into the lunchtime, but I would be prepared to give up that time.

The Chair: I would like to suggest that we're now in the fifth day of our hearings. We've been very consistent on 30 minutes. We're trying to stay on time today, especially because people have planes and trains to catch

to get home for the season.

Ms Lankin: But there's a lunch break coming. There are two groups before lunch, and with unanimous consent—it would be very quick, if there is unanimous consent; if there isn't—

Mrs Caplan: We'll give unanimous consent, one question each.

Mr Bartolucci: Makes sense to do it, Mr Chair.

Mr Clement: It's at your discretion, Mr Chair. That's why you're the Chair.

Mrs Caplan: Well, it's unanimous consent. If you'll give it, we can do it.

Mr Clement: No, no. Don't put words in my mouth,

The Chair: If it's my discretion, the answer is no. Thank you very much.

Mrs Caplan: But we've asked you to give unanimous consent. You can do that.

The Chair: Our next presenter is—

Mrs Caplan: Just say yes and then we will accept your ruiling.

The Chair: Thank you, Mrs Caplan.

Mrs Caplan: With unanimous consent he must-

The Chair: Thank you, Mrs Caplan.

Mrs Morgenthau: I'm going to be here for a few minutes. You can have me.

The Chair: Thank you very much. We appreciate your interest.

Mrs Morgenthau: Thank you for the time.

Mr Bartolucci: Just as a point of procedure, Mr Chair: If someone asks for unanimous consent—is it not proper for unanimous consent to be asked for? If it's not granted, that's fine, but should it not be asked for?

Throughout this process I'm frustrated because, in trying to be fair, you're being unfair; in trying to remain by the rules, you're denying the rules as they exist. You're not doing it intentionally, I know that, but unanimous consent was asked for. If it's not granted, that's fine, but at least you should be giving the committee the power to do it. So, Frances has asked for unanimous consent—

Mrs Caplan: You asked for it.

Mr Bartolucci: —and I'm asking for unanimous consent.

Mrs Caplan: To allow one question from each caucus to this witness. We're asking, Mr Chair, if you would allow the government to say whether or not it will give unanimous consent to allow for each caucus to have one question from CARP.

The Chair: I did not hear that there is unanimous consent.

Mr Bartolucci: But you didn't ask for it.

Mrs Caplan: Will you ask if there is unanimous consent?

Mr Clement: I'm asking the Chair to decide whether it's in order to ask—

Mrs Caplan: You have to ask, "Will you give unanimous consent?" Mr Chair, you have to ask that question. Ask if there is unanimous consent so that on the record we can hear yea or nay.

The Chair: We're going to take a five-minute recess. The committee recessed from 1106 to 1111.

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MONTY MAZIN

The Chair: We're back in business. Our next presenter is Monty Mazin. Good morning, sir, and welcome

to our committee. You have a half-hour of our time to use as you see fit. Any questions will be divided up evenly at the end, starting with the Liberals. The floor is

yours, sir.

Mr Monty Mazin: I was hurriedly called to this hearing and I welcome it. I just want to say at the outset that I'm so-called retired, as an unpaid volunteer, but busier than ever. I'm very active with the B'nai Brith, Rotary International, am very closely working with Doreen Wicks, who runs an organization called GEMS of Hope, and I've been working most of my life with the elderly, young people and people in need. So I can truthfully say that, to begin with, I represent a community in north Toronto that will be impacted by Bill 26. Thank you for providing me with an opportunity to address the concerns that I have as a resident of the community.

I live in a community of over 170,000 people, a community where almost 20% of the population is over the age of 65. This community will be significantly impacted by Bill 26 because of the recommended closure of a community hospital. I'm talking about the planned

closure of the North York Branson Hospital.

This bill gives the minister the power to close hospitals or to delegate that responsibility to others. While I support the need for fiscal responsibility, I believe that closure of some institutions will not be in the best interests of the community and will not save money, but may actually cost, in terms of the care provided to a community, an actual capital and operating cost in the long run.

I'm talking today as someone in the community who has had actual experience in assessing the North York

Branson Hospital and its program and services.

Branson has been serving the people in North York for almost 40 years and has developed the services required by that community. The hospital has purchased the equipment and renovated to ensure that it can meet the needs of the community it serves over the next 20 years. The hospital provides medical expertise, facilities and equipment that meet the needs of the aging population in the community surrounding the hospital.

The following are some of the areas of excellence that have been developed to meet the needs of the aging

community:

(1) Currently has an acute geriatric care unit recognized for its excellent programming.

(2) The Diabetic Education Centre is recognized

throughout the city as a program of excellence.

(3) The laboratory is one of the top laboratories in the country in terms of progressive management and quality of service.

- (4) The medical imaging department is second to none, with a brand-new CT scanner, nine ultrasound machines and four nuclear medicine cameras.
- (5) The emergency department has the highest percentage of staff with advanced life support training, 79%, of any community hospital in the city; 24% have trauma life support training. This is to meet the needs of the aging population surrounding the hospital.
- (6) The GI unit has recently moved to a refurbished area and how provides the best physical facilities for GI procedures in the city. These changes were made to meet occupational health and safety concerns identified by staff

regarding environmental venting of cleaning solutions.

(7) The operating rooms, recovery rooms, labour and delivery suites are all new and have the latest equipment.

(8) The hospital is equipped to handle cardiac cases. The hospital purchased \$1 million worth of heart monitors to handle the community needs in the past three years. There is a total of 40 heart monitors in the emergency department, critical care unit, stepdown unit and post-coronary care units.

(9) The hospital has a new Jewish chapel to comple-

ment the existing Christian chapel.

(10) The hospital has numerous services to meet the needs of the elderly patient in the community. These include hearing clinics, foot care clinics, diabetic education, respiratory care, speech pathology, physiotherapy, occupational therapy.

(11) New outpatient pharmacy.

(12) New labour and delivery room and remodelled maternity unit.

(13) A new hospital library open to the public.

New equipment purchased to meet patient needs includes: a new laser for prostate surgery; new bathing equipment for elderly patients; integrated patient commuter systems to provide transfer of patient care information.

All of these improvements have been made at the hospital to better meet the changing needs of the community the hospital serves. These changes were not made without community support. The community has participated in this process by supporting the fund-raising activities for projects such as CAT, heart monitors, respirators, critical care upgrades and clinics, new laboratory, operating rooms, labour and delivery rooms and stepdown unit.

How do I know that all this equipment exists? Because I personally have used much of this equipment myself, having been a patient at the hospital following a massive heart attack, which was a year ago. Thank God I was spared and thank God for Dr Martin Strauss at the Branson. I received the proper care and I'm with you today.

I know that the hospital is equipped to meet the needs of the community it serves. If a decision is being made to close Branson hospital, I believe that the process should include consultation with all organizations and community groups that will be affected. I'm not talking about the one-way communication that was experienced in the DHC process, but actual discussion with the communities impacted to give them an opportunity to understand the rationale for decisions, to ask questions and clarify misgivings.

Just to review, the community served by Branson hospital is made up of a high percentage of senior citizens, as already stated, just under 20% in North York around the hospital. There's a large number of senior buildings, and the B'nai Brith—and I was personally associated with this—put up a building directly opposite Branson thanks to a philanthropist who gave \$1 million. It's affordable housing that houses now over 150 people, deliberately chosen because it was opposite Branson.

The cultural understanding of Branson of the Jewish faith and cultural requirements: Will this same understanding exist in a merged facility that is not readily accessible to many who today can walk to Branson hospital?

These issues and the fact that capital will be expended to duplicate the services already provided but in a location remote from our community is of great concern to me as a former patient and to our organization, which represents many seniors and aging adults. We seek further consultation prior to capital being expended to save on overhead costs that can be reduced in many ways through shared services without loss of access to emergency and inpatient service in a large metropolitan community.

In coming down, I made some very hurried notes, because I just read an item in the Toronto Sun, a supporter of the Harris government, in which was the headline, "Harris Regrets Lack of Support." It says:

"Premier Mike Harris' biggest regret of 1995 is that many Ontarians don't seem to be buying into the Conservative Common Sense Revolution.

"I regret very much, and perhaps it's a lack of our communications, that a significant portion of the population believes what we are doing is the wrong direction and the wrong motive,' he said....

"Harris said public disillusion will wane as voters

begin to understand Tory goals.

"I believe what we are doing is in the very best interests of some groups-women, children-"-didn't mention elderly—"it's for them we are doing it."

"Harris said his communications staff will have to step

up their efforts to sell the program in 1996."

1120

With the greatest respect to the Premier and yourselves, let me give you an example where I think the funds could come from. I've been a fund-raising, a public relations person, all my life. I've worked in various notfor-profit organizations. Corporate giving in this country, and it applies to this city and province, is no more than 2%. With all the hullabaloo, no more than 2% is given of profits from corporates. This is backed up by the Canadian Centre for Philanthropy, which just published a

report of its findings.

The good book, which I'm familiar with, going way back to the time of Jacob, talks of giving back, for those who have, 10%. All the way through it talks of pious Jews, Christians, what have you, to give back, those who have, 10%. That 8% could make guite a difference. If the direction of Harris would be with his communications staff to those people who have the wherewithal-and we're blessed in this city, and I know many personally through the fund-raising events that I've been associated with, some outstanding philanthropists. The Lieutenant Governor himself this week made a very handsome private donation.

What I'm saying is we have people who have not only given beyond their 10%, but who have the clout and influence to get others to do likewise. This could be a tremendous source of funding for the government to offset any deficit or for the very hospitals that are in dire need to survive and exist. So I say, concentrate on selling your program to these very corporate people who have the wherewithal and are not giving nearly enough by giving just barely 2%.

I want to end with a story which I think makes a very telling point. The story is of a boy on a beach. The beach is full of starfish, hundreds and hundreds of starfish. This little boy is picking them up one by one and throwing them back in the ocean. A stranger comes by, who says to the boy, "What are you doing?" The boy says, "I'm giving them back their life." The stranger looks around the beach and he says: "But there are hundreds of them out there. Do you think it's going to make a difference?" The boy holds up the one starfish in his hand and says, "It makes a difference to this one."

I tell you, it makes a difference to the elderly, the sick, the disabled, the poor who are distressed, who are depressed. If these cuts go through, it means their lives will be shortened, and I'm not being alarmist. So I say, please, to the government, people like yourselves who make the recommendations, give us back a life of hope that you will not go through with these closures and these terrible, terrible cuts. TLC stands for tender, loving care, but as far as this bill is concerned, it's terrible legislative cruelty. Let's get it back to TLC tender, loving care, especially at this time of the year, when we're celebrating Christmas and Hanukkah.

I can tell you that through Rotary, I've been involved in helping Salvation Army, the needs are greater than ever. They can't cope. The needs are greater than ever. I know you're all aware of this. Through the B'Nai Brith just last Sunday—Elinor Caplan knows what we do in the community through B'Nai Brith—we had lists from the Jewish child welfare and senior care, nearly 400 names, to give them a Hanukkah gift. I want to tell you that when we delivered the gifts, we found too many of the elderly using their food money to help pay their rent. It's not getting better; it's getting worse.

Bearing all this in mind, at this time of the year, let's have the spirit of Hanukkah and Christmas every day and not go through with this terrible, terrible bill that will

affect so many people.

The Chair: Thank you, sir. You've allowed about four minutes per party for questions, beginning with the

Liberals, Mrs Caplan.

Mrs Caplan: Thank you for a very passionate presentation. You mentioned the fact that seniors that you're meeting, poor seniors, are using food money for rent. What's going to happen to those people when this bill passes and they're now forced to pay a \$2 copayment that's if they're under \$16,000 for an individual, or \$24,000 for two seniors together, if that's their income each time they get a prescription they have to pay \$2?

That's for the poor seniors.

Mr Mazin: I'm very, very frightened; very fearful. We're talking of \$2. I don't have to tell you—you people are in touch with your community-\$2 to us is like \$20 to the very people you're mentioning. It's not just the one item; it's the fear of the rest now. There are so many fears they have. In other words, they're living in fear, waking up from sleepless nights and living in fear, and I see it getting worse. So they become more chronically ill because of this. You're absolutely right in raising that question. These are additional burdens to the very people who were looking forward to golden years at this time of their life.

Mrs Caplan: I know that many of those people believed Mike Harris when he said that his policies were not going to hurt seniors. How are they feeling? I know you said they're feeling fearful, but for those—

Mr Mazin: Well, I'll tell you the truth and I'll use

their words—

Mrs Caplan: —the thought that he wasn't going to nurt seniors.

Mr Mazin: —he lied. I'm not associated with any political party.

Mrs Caplan: I know that.

Mr Mazin: I tell you as a community worker. When you ask people their thoughts, this is what they're coming up with: "He deceived us. He lied." There were many

who did support the Harris government, yes.

Ms Lankin: Mr Mazin, I'm very moved by the passion of your presentation and by the depth of your beliefs. I share your level of concern for how the cumulative effects of some of the actions of this government, many of which will be enacted through this bill, are having an impact on people, and particularly people who don't have the financial wherewithal to protect themselves and to be able to withstand this. Quite frankly, I'm angry and I feel sometimes desperate to try and get the message across. I feel personally that this tax break of 30% that is going to benefit primarily the wealthiest people is immoral when it comes on the backs of poor seniors and welfare recipients and persons with disabilities. It's just wrong and it runs against all of my personal ethics.

I actually wanted to ask you some questions and they seem so sort of technical and picayune compared to the big picture that you've delivered and the big message that you've delivered. I am interested in some of the comments you made about Branson hospital in particular and your concerns about the district health council report and the process. In this bill, powers are given to a restructuring commission. There are no terms of reference set out, there are no objectives set out and there's no relationship set out to local consultation processes, or even DHCs.

I think many people have felt that the DHC process in fact was a fairly thorough community consultation, but in your presentation you called it one-way and you felt that the people from your community didn't have input. I'd like you to tell me what your experience was and what happened during that because I know of some other communities that in fact felt that they had a good dialogue and when they didn't like the end result of the report in the second phase of consultation were able to get some changes in it. Why do you feel your community

didn't have that opportunity?

Mr Mazin: I was called upon, as I told you, through B'nai Brith back in October without any prior knowledge of any consultations taking place or anyone coming to us to discuss in detail what the proposals were. It was thrust upon us. I found myself before a committee actually half this size at that time—there was just the chairman and two people and then they had to have another hearing to make up the group—and I felt there was not serious attention given to such a serious situation that would affect so many people. In other words, if there'd been more prior research and then discussion, "This is what we

propose," at that time rather than throw it into here—there have been many accusations about being undemocratic and what have you. I do welcome this hearing, but I tell you, it has upset a lot of people and there's a lot of fear around that maybe it's too late. I'm hoping they're wrong, that it's not too late.

The Chair: For the government, Mrs Ecker.

1130

Mrs Ecker: Thank you very much, Mr Mazin, for a very excellent presentation. I appreciate your taking the time to come in and put forward your views. As someone who was raised by a parent who believed in the traditional Christian duty to tithe, I quite sympathize with your comments that more of us should do more of that. I think we'd all be better off, including corporations, if we did.

I just wanted to ask a little bit about the restructuring exercise and what's happening at Branson. I'm very sympathetic to the concerns that you raise about your

hospital

I guess the concern that our minister has wrestled with is, how do we restructure the hospital system in an appropriate way? Other provinces have brought in legislation where, for example, the cabinet of the government can constitute the hospital board, or where all the hospital boards were disbanded and made into one board underneath the government. There have been a lot of draconian things which other governments have tried to do.

The concern we had was that we wanted to base it on the community-based recommendations that were coming through district health councils, as here in Toronto. That system which had been set up under the previous government we thought might have some community input, would bring forward community recommendations which would be useful. I know in my own area, the district health council process, while it also had flaws, did bring forward recommendations which I think are going to be very helpful in my particular region.

The minister has designated a commission which is to implement those kinds of recommendations. You're flagging a concern that that DHC process has not worked well for your area. What advice would you give to the minister to try to implement restructuring in the province in order to try to save some of those resources and

reinvest them in other areas?

Mr Mazin: My personal experience, as I've already mentioned, is with Branson. I can go way back to 1981 when it saved my life when my appendix burst on the way to hospital. Although it's seven kilometres more up to York-Finch, I was at death's door and I would not have survived. I'm really worried about many, many people who use that hospital as their local hospital, who without a car would not be able to get to York-Finch or have the same accommodation in an emergency as they do at Branson.

But apart from that, I mentioned earlier the facilities that Branson has now had after 40 years. There was a time, when I came into this province about 17 years ago—and being in PR, I know they had a hell of a job to get rid of a bad name—Branson did not have a good name. Somehow when they'd mention Branson: "Oh, no. Oh, no." It's changed around tremendously. They have

some of the finest doctors, the equipment that I've already spelled out, and they've put in millions. And I know personally because I helped to raise funds. Hasn't the government considered all this? It's a bigger hospital, by the way, as well as having better facilities than York-Finch. There doesn't seem to have been any thorough research taking that into consideration. Did they go around and speak not only to the doctors and nurses and the staff, but to the patients?

Let me bring up another point as a volunteer. Do you know how much money we, as volunteers, save the government, federally and provincially? They just announced this week what a housewife is worth, and they're saving billions if they had to pay housewives for the work they did. They would spend billions if they had to pay their volunteers. We're saving them billions, and in this province certainly millions. None of this has been taken into consideration, the feelings of the very people like myself who work in the community, who are not in an ivory tower making decisions but are with the people on a day-to-day basis. That's my plea.

The Chair: Thank you very much, Mr Mazin. We appreciate your interest in our process and your presence here today. Have a good day.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair: Our next presenters are from Parkdale Community Legal Services, Elinor Mahoney and Elizabeth Kostynyk. Welcome, ladies. We appreciate your being here. You have half an hour to use as you see fit. Any time you leave for questions will begin with the New Democratic Party. The floor is yours.

Ms Elinor Mahoney: Thank you very much. My name is Elinor Mahoney and I'm a community legal worker at Parkdale Community Legal Services, where I've worked for the last 14½ years. This is Elizabeth Kostynyk. Elizabeth is a member of the community and a client of the clinic who came forward just within the past couple of weeks with concerns about Bill 26 and asked if we could help her get a position here so that she could come and express her concerns to you.

First, I'd like to tell you a little bit about the Parkdale community and the work we do, and then I'd like to turn it over to Elizabeth and then come back to me, so whoever is on the microphones can do that, and express some of the concerns that we at the clinic have with Bill 26, specifically with the health care provisions.

Parkdale is a west-end Toronto area, basically south of Bloor to the lake, Parkside Drive over to Ossington Avenue. It's an area that is predominantly tenant-occupied. It has a large number of seniors and a large number of disabled people and people with both physical and psychological ailments or disabilities. Approximately 3,000 of these individuals are in boarding homes in the Parkdale area living an extremely marginal, poor existence.

We also have Oueen Street Mental Health Centre in the Parkdale catchment area. It has a large inpatient and outpatient program. So we at our legal clinic, in addition to doing the normal landlord and tenant casework, helping people with social assistance concerns, also do work in the area of mental health, both in advocacy and

attempting to help people access the services to which they're entitled.

So that tells you a little bit about the Parkdale area and a little bit about the clinic. Now I'd like to turn it over to Elizabeth and let her express her concerns to you.

Ms Elizabeth Kostynyk: Hello. My name is Elizabeth Kostynyk. I'm here today to speak on the section of Bill 26 that most concerns me, the section pertaining to access to medical records. I have fibromyalgia. Some people call it CFIDS, chronic fatigue immune dysfunction syndrome; myalgic encephalomyelitis; there's also another name that slips my mind. I'm on disability and have already given consent to release of information of my medical records to family benefits and Health and Welfare Canada as required under the law as it stands today. What more could you ask? But it seems you do ask for more.

When I first heard about Bill 26, it was on the news the night Mr Alvin Curling made his stand. The next day when I called Mr Bob Rae's office to call in my support, I was told about the gathering at Queen's Park in support of this stand. I made a concerted effort to get there. Shortly after I arrived, it was all over, at least the part of Mr Curling being escorted from the chamber.

It took a couple of days, perhaps a week, for my senses to come to me. When they did, I called my constituency office, Mr Derwyn Shea, and asked for a copy of the section on access to medical records. I was politely told that I could purchase the entire document, to which I replied I would gladly wait and have it read to me over the phone. I was put on hold. The next voice that I heard was that of Mr Shea's executive assistant, Ms Jennifer Daly. She said she would send me a copy of this four-page section, but first would have to check and see if there had been any changes and send them on as well. That was Thursday or Friday of last week. On Tuesday or Wednesday of this week, I had reason to contact Ms Daly again and was told that the information on Bill 26 I asked for was in the mail as at that day or the next morning. It is Christmas and I do understand mail might move just a little slower. Throughout this week I have tried, to no avail, to gather information on my rights to privacy, until of course I contacted Parkdale Community Legal Services.

I have a couple of major concerns about this bill: the speed with which it has been rushed before hearing/passing; the timing being Christmas; no time for public

debate; hoping no one is listening.

What little I do understand about this bill is that my medical file would actually move from the security of my doctor's office into the hands of someone other than that person in whom I confide. This relationship between doctor and patient is sacred, like that of lawyer-client or a priest in a confessional or life partners in their intimacies. This bill seems to want to violate my right to privacy, and perhaps even more than that, it seems to be a kind of rape of my psyche. How can I trust again if what I reveal in this relationship will move from the sanctuary of the doctor's office? Perhaps that is just what this is trying to do here: to silence me, and all others. No one can give me an ironclad guarantee that my right to privacy will be upheld and honoured once my file leaves

the doctor's office. I would feel most secure if things were left just as they are. Surely there must be a way to address the fraud situation without violating me as a person.

1140

I am also very concerned about what is not being said or revealed, a kind of secret agenda that hasn't been tabled. I have these fears because Mr Harris has recently spoken in ways that concern me greatly. He has used semantics to bring in user fees, calling them "copayments." In very clever and roundabout ways he has managed to do exactly what he said he would not do, simply by using the law to twist things in his favour. He has publicly said that it is "human nature to cheat, or to try and cheat." This speaks volumes about this man. I wholeheartedly disagree. I believe most people feel they are being pushed into "survival mode."

Make no mistake: I do understand the government's intentions of good. But good for whom? Who stands to gain the greatest good, what is the price of this good, and how do we achieve this good? For me, it is through compassion, reverence and understanding for life itself, not just as I see it but as others see it too, and how we treat one another that is paramount; it must always be with honour and respect, not disdain, distrust and indignity. Mr Harris, my answer to you is a simple no. PS,

what part of "No" do you not understand?

Ms Mahoney: I would like at this point to make a few comments about the process that is involved here this week and in January and how difficult it is for me as a community legal worker representing the clinic and the population of Parkdale to adequately address the concerns we have about the bill.

I've appeared before this committee and other committees on dozens of occasions over the last 14 years talking about tenant bills, social assistance issues and so on, and in every instance I've been able to appear with a written brief, having done the requisite legal analysis and comparison. I'm a plain-language legal writer, among other things, and I've been able to point out ambiguities that are in the bill which are helpful to the government of the day in correcting and improving the bill before it becomes law.

I've been unable to do any of this. As Ms Kostynyk indicated, this is the Christmas season, and although we are a multicultural society, Christmas has become probably the biggest holiday season of the year for everyone, and certainly for me. It's also year-end time, which for people in government-funded businesses such as ours means doing all the accountability, statistics, planning and so forth for the coming year.

So in among all of this, we have had to take the bill and try and look at what the bill means. With an omnibus bill, it's very, very difficult to do that. Those of you who have some legislative drafting experience know that if you want to look and see what the effect of the bill is, you really have to pull out 47 statutes, some of which you may not be familiar with. Then you have to go back to the actual Bill 26 and say, "Okay, well, subsection 7(c) is amended to add the words 'and therefore," and then you look in the statute and you see, okay, well, what does that mean in the context of that particular law? Then you

go back to the next change. You go back and forth and back and forth.

This is the largest omnibus bill I've ever seen in 14½ years of working at Parkdale Community Legal Services, and I quite frankly have been unable to do that in any kind of adequate way, even though that's where my training is. The fact that it's an omnibus bill makes it twice as difficult to do this even with respect to the health care provisions. I apologize for not coming with a written brief, for not coming with a detailed analysis which could assist the government in at least determining what the bill says, because my understanding is that the government really doesn't know what its own bill says.

I can sympathize with you. If I don't know, and I'm trained to know this—most of you probably aren't trained legal experts and you're being asked to comment and pass a bill that you don't understand yourselves. This is a scary prospect for me as a legal worker. It should be a very scary prospect for you, as people who are custodians of the faith and the trust of the province, not to understand your own legislation and to be pushing it through fast

That leads me to the issue of timing, the fact that it is right before Christmas. Many people who could assist you in understanding your bill, in pointing out the difficulties in your bill, so that you could say, "We didn't realize that. We'd like to change that in good faith," are unable to come to the public hearings at this time, even though some of us have made some effort to come, unprepared as we may be.

I think it really is incumbent upon the governing party, the Progressive Conservatives, to have a full consultation that will enable you to accomplish what is useful in the bill without accidentally and incidentally causing harm and stress and problems for individuals that can otherwise

be avoided.

You've been given a timetable and, as committee members, you have to fulfil that timetable. But when you report back, you have the option of presenting a no report, you have an option of not voting on certain clauses. You have quite a bit of freedom as committee members, and I would encourage you to exercise that freedom to indicate to the other members of your caucus and your party that you feel this bill needs a bigger analysis and a better analysis before it can become law. This is what responsible government is about, and I think most of us here in this room really want this government to be responsible and accountable to the people in a properly consultative and thoughtful manner.

I'd also like to comment at this point concerning the speed at which the bill is going through; not just the timing but the speed. Many people, and editorial commentators, have suggested that this bill has wide-sweeping effects, if passed, and gives the government wide-sweeping regulatory powers, and my quick reading of the bill indicates that this is indeed so.

The government's position, as I understand it, is that this has to happen so quickly that there's no opportunity for consultation. In the past few months we've had a number of items go forward to the government. Some have gone slowly, some have gone quickly. One of the ones that has been implemented very quickly is the

21.6% welfare cut, which our clinic and other clinics are fighting in a charter challenge case, the decision from which is expected next week.

It was determined, without any reference to the financial needs of people on assistance, that they could sustain a 21.6% cut. Compare that to the attitude of the government in dealing with salaries of members of the provincial Legislature. At almost exactly the same time that people on social assistance were cut by 21.6% the government established a commission to look into what is an appropriate salary for people with your position.

This commission took several months. It did studies, it did a comparison of what other MLAs were getting across the country, looked at the job descriptions and came up with recommendations. Speaking personally and professionally, I deeply regret that this government decided it could cut the incomes of the people with the lowest incomes in the province arbitrarily, harshly and swiftly and, at the same time, spend taxpayers' money to have a commission look into its own salaries. It's this type of mindset that I'd like to quite seriously ask you to change, as committee members, as members of your own community and as members of the Legislature.

In dealing with the omnibus bill, Bill 26, it has wide-sweeping effects in many, many areas, but health is the area that you folks are focusing on today. I'd like to make just two or three comments about particular areas of the bill that I feel need to be rethought. I know you've heard other comments, probably very similar, on these. The ones I want to speak about are the drug user fee and the possible delisting of OHIP procedures.

1150

Ms Kostynyk has spoken more articulately than I could about freedom of information concerns, and I don't feel at this time I can speak about deregulation of drug prices. Quite frankly, if I were to say I opposed or I supported it on behalf of our clinic, I would be doing so without sufficient information to make an informed argument, so I'm not going to oppose deregulation of drug prices. I'm just going to say that I and our clinic have tremendous concerns that this issue has not been fully thought out before being presented in Bill 26, and we would like more time for that.

With respect to the drug user fee, it ties in, for people in my community, Parkdale, very much with the fact that there has been a 21.6% welfare cut, that there have been cuts to social service agencies that are providing other types of support to people with physical and emotional and psychiatric difficulties, to senior citizens, to other poor people. So the drug user fee comes on top of a series of cuts and inconveniences and harsh measures that have been taken that affect people in my community.

To those of you who are healthy, and I hope you continue to be healthy, you think about drug user fees as \$2 that you might pay three or four times a year, perhaps when you have an antibiotic or a birth control pill prescription or something like that. But to a person who is a senior citizen in their declining years or a person with physical or mental difficulties that require medication, I can tell you that many of our clients in south Parkdale have to have eight or 10 prescriptions a month, because each drug has its own series of drug side-effects,

so then they get prescribed another drug that is meant to relieve the nausea or prevent drooling or whatever the issue might be.

For someone on a fixed income, social assistance for example, which is not indexed according to the consumer price index, having what could be a \$20 or \$24 per month extra expense for drugs is a disincentive to take some of the drugs that their doctors are advising them to take. Certainly in the case of people with psychiatric difficulties, sometimes there is a feeling that they don't always necessarily want to take all the medication and their doctor's saying, "We think you should take this medication." This is another disincentive to follow their doctor's advice. In some cases that may cause difficulties for the prognosis of the individual.

On the drug user fee, we don't believe any study has been brought forward by the government that would show that this has worked in a positive way in any other jurisdiction in Canada. If I'm wrong, I'd like to read that study and then be able to come back in January and comment on that study, but I don't believe any such study exists. Therefore, we would like the drug user fee taken out of Bill 26.

With respect to OHIP coverage procedures, we see that now the government wants to streamline the process for delisting them so it can delist them by regulation; in other words, through cabinet consultation only and not necessarily with the approval or consultation with the Ontario Medical Association.

Generally I have a concern when governments usurp to the cabinet powers which are normally left in the hands of the Legislature, and we've seen certainly with the regulatory changes to welfare and family benefits part of it is government by regulation rather than government by legislation.

I'm concerned with this trend appearing in Bill 26, taking powers out of the hands of the Legislature and placing them in the hands of the cabinet. Even if you have tremendous faith in your own powers and your own will and good faith, I ask you to consider what would happen in your case if you did not get re-elected and another party were in. You would have handed over to that other party tremendous powers that you would not want them to implement. For many people in the province, democracy means having a chance through the Legislature to have full and fair consultation, to have debate, and you remove that opportunity for all of the people of the province when you take powers from the Legislature and put them into regulation.

I'm particularly concerned, and our clinic is particularly concerned, with the thought that some OHIP procedures might be covered and insured only for people of certain age groups. We see this as rank discrimination. We think the government would be leaving itself open to a charter challenge because we believe this would discriminate against people on the basis of age. I have no doubt that if the government passes this, it would be taken to court in a series of lengthy and costly court appearances. I ask you to reconsider that. People of all ages should have equal access to medically necessary procedures.

At this point I'm sure you might have some questions of my colleague or of myself. I'd be happy to answer any questions or concerns that you might have.

The Chair: Thank you very much. We have a very short period of time for questions actually, about two minutes per party. That goes by very quickly. Ms Lankin.

minutes per party. That goes by very quickly. Ms Lankin.

Ms Lankin: Thank you for your participation, Ms Kostynyk. There have been some incredible individuals who have come forward before this committee and who have been most articulate in voicing their thoughts and their opinions and their desire for this government just to hold on a minute and take a second look.

I'm reminded of Ms Margles, who was here the other day, who said that she'd been watching us on TV on her holidays. I told her maybe she should get a life, but that's how important it was to her, and if she's out there watching, I'm sure she appreciated your coming forward

with your own personal story as well.

Elinor, your overview is very thoughtful and very thought-provoking. I understand the point you're-making about not having had the time to do the kind of analysis you usually do and provide to committees, and we're all aware of the quality of that work. Besides not having had the time, I just want to point out that it's only in the last week or so that the bill has even been available in the bookstore with the legislation that goes along with it.

Before that, you had to go to the legislative library and pay \$600 and photocopy it yourself. Now, to purchase the whole thing, it's \$352.14. I don't know how you can have access to democracy when people have that kind of a financial burden just to get access to see what it's all about. We've been photocopying it and trying to give it out to people, but caucus budgets are restrained as well.

Your plea to slow things down is one that has been echoed here. I also believe it needs to be broken up. I don't think just slowing things down at this point is going to allow people to focus on discrete pieces of legislation and understand them and understand the relationship.

Ms Mahoney: I believe my colleague Tanya Lena, who spoke at the other hearing, made that point. Here the issue is relatively focused on health care, so because I'm speaking on health care, I didn't talk about breaking it down further. But yes, our clinic believes other aspects of the bill should be broken down into similar categories.

Mr Clement: Thank you for both of your presentations. You've given us a lot to think about, and I appreciate your efforts to be as informed as possible before

appearing here.

Let me, because of the limited time available, just focus in on access to patient records because that seemed to be a particular concern to both of you, and it should be. We should not treat such information lightly.

Under the current act, however, there is access to patient records already by physicians or other treating physicians, by College of Physicians and Surgeons' investigators within hospitals for quality assurance and data collection. It can be subpoenaed in court, and of course the OHIP general manager already has access to those files. We are expanding the access. I do take that point, but there are in other parts of the law as it exists right now severe penalties if any ministry employee or other officials misuse any of that information.

I just wanted to assure you that that's already in place, but I do take your point that perhaps we have to make this clearer in the legislation to alleviate some of your concerns. If we did do that, if we did make some of the rules clearer on this, and given the current state of the law as it now exists, would that be helpful to you to alleviate some of your concerns?

Ms Kostynyk: Quite truthfully, I'd have to see what it is specifically. I'd have to know and have an absolute guarantee that you're not going to change words and use semantics to change things, to manipulate things in a way that puts you in a position of power over me. It would take a long process, to be quite honest with you, and when we're talking about trust, trust is something that grows and develops. It's not a gift that's given, you earn it, and at this point in time I don't have any for this government.

Mrs Caplan: Thank you for both eloquence and passion. The freedom of information commissioner, and his other title is the privacy commissioner, expressed the concerns that I think you've shown great passion about. I want to thank you for coming and tell you how sorry I am that more people are not going to have the opportunity to come before this committee.

Because of the speed of the hearings, many people are not able to prepare in time and for others, frankly, it just can't be organized quickly enough to come as they start to realize the importance of this bill. We know that the phones are ringing and that people are calling to say, "I want to come." To this point in time, there have been 850 people and organizations that have made requests and we're just hearing a small fraction of them.

Ms Mahoney: At this point I'd like to respond to that about not having the time to look at this bill properly. One of the things we tell our clients again and again and again in our legal clinic is: "Don't sign this document"— whether it's a lease or a welfare statement of rights or whatever—"unless you're sure you understand it and unless you're sure you agree with it. This is the standard. Read the small print." Lawyer talk that you get from a clinic.

I don't have any confidence from what I have heard and seen over the last few weeks, from members of your party and indeed members of the opposition, that people truly understand this bill. If I don't understand it, if other lawyers don't understand it, if the political hacks who work for all of you don't understand it, the question is, how could you sign this bill and put this into law as people who are supposed to hold the trust of your constituents?

I urge you not to. I urge you to come back with a no report from this committee and to indicate to the Legislature that the people of Ontario need more time to come up with improvements and understanding of the bill before it becomes law.

The Chair: Thank you very much. Thank you, Mrs Caplan.

Ms Lankin: Mr Chair, I would like to make a motion when you're finished thanking the group.

The Chair: We appreciate your interest in our process and your attendance here at the committee this morning. Thank you very much.

Ms Mahoney: Thank you for the opportunity.

The Chair: Ms Lankin?

Ms Lankin: Thank you very much and I think it's particularly appropriate, in light of the comments of these last presenters. I have copies here if the clerk wants to distribute it.

Whereas there has been overwhelming public interest in Bill 26 and requests to appear before the standing committee on general government far exceed the number of spaces available; and

Whereas since Wednesday, December 20, when this matter was last discussed, there have been over 200 more applicants for the out-of-town hearings and this is before

the ads have been placed;

I move that this subcommittee recommends to the government House leader that when the House returns on January 29, 1996, the order with respect to Bill 26 be amended and that the bill be returned to the standing committee on general government so that further public hearings can be arranged;

Further, that this committee recommends to the government House leader, based on the submissions to the committee to date, that the bill be separated into several bills to allow the public an opportunity to ade-

quately analyse the bill.

Further, that this committee recommends that the three House leaders meet as soon as possible to discuss this

issue.

Mr Chair, I would like to suggest, given that when we adjourn today at 6, I know there are members from out of town who will want to be travelling home to their constituencies, perhaps we reconvene at a quarter to 1 to discuss this. The reason I suggest that, rather than discussing it right now, is I would like to give the government members some time to think about this, to talk to each other, to speak to whoever else they need to, to reflect on the discussions and the presentations we have heard today and over the course of the last two days since they last voted against this.

The Chair: Anybody have a problem with a quarter

to 1?

Mrs Caplan: A quarter to 1 is fine.

The Chair: Just a couple of things before we break: You've been handed out this document, which is all our arrangements for our travel up north and in southern Ontario. I trust you to keep it safely.

The second question: Do we have any problem with the ministry staff and whoever else is going to be travel-

ling with us sharing our bus?

Ms Lankin: Why would we?

The Chair: If there's room. We just had to get

approval for that.

Ms Lankin: No, they're good folks. All except for the person from Jim's office there. No, Rick can come too. That's okay.

Mrs Caplan: Particularly, Mr Chairman, just on that, and very briefly, there are a number of members of the Legislature who would like, I think, a chance to participate. I just ask that members be given priority to space available.

The Chair: Sure. Will we know in advance?

Mrs Caplan: We'll do that as soon as we can.

The Chair: Because we have to make arrangements for the other staff.

Mrs Caplan: We'll notify our members and ask that they let you know if they'd like to have space on the bus.

The Chair: Okay. And of course, we also need for them to show up.

Mrs Caplan: I don't understand that.

The Chair: Well, if they ask for a place in the bus and we've told some staff they couldn't be there—

Mrs Caplan: Oh, of course.

The Chair: We expect that the members will show up.

Mrs Caplan: We'll let them know that they would have to be there.

The Chair: We're recessed till a quarter to 1. The committee recessed from 1206 to 1248.

The Chair: Welcome back to our committee. Prior to our break for lunch, Ms Lankin moved a motion. I don't think I need to repeat the motion, but because this motion is exactly the same as a motion that was previously moved and we did not pass, the motion is out of order.

Ms Lankin: Mr Chair, may I ask for a clarification?

The Chair: Yes, Ms Lankin.

Ms Lankin: The wording of the motion, you're correct, is exactly the same. The whereases that give the reason for it do explain that the conditions since this motion was last discussed on Wednesday have changed. Is it necessary, therefore, for the wording of the motion to be different, or should I in fact have moved reconsideration? Would that be the appropriate way to go?

The Chair: The motion begins where you say, "I

move."

Ms Lankin: I understand that.

The Chair: And basically, since it is the same motion, it cannot be dealt with twice.

Ms Lankin: Even if conditions have changed. **The Chair:** Even if conditions have changed.

Ms Lankin: So therefore is the correct procedure for this committee for me to move reconsideration of the earlier motion that I put forward on Wednesday?

The Chair: I guess if you would choose to do that,

then-

Ms Lankin: I choose to do that. Now could you explain to the committee the rules or the procedures that would govern that motion?

The Chair: We'll have a five-minute recess. *The committee recessed from 1250 to 1255.*

The Chair: The decision of the Chair is that you would have to submit a new motion.

Ms Lankin: I am prepared to do that at this time, if

I may begin, then:

Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available; and

Whereas since Wednesday, December 20, when this matter was last discussed, there have been over 200 more applicants for the out-of-town hearings, and this is before

the advertisements have been placed;

I move that this committee recommends that the government House leader meet with the two opposition House leaders as soon as possible to discuss the time for public hearings and the form in which the bill gets reported back to the House on January 29, 1996.

The Chair: Thank you, Ms Lankin. If I may suggest something, we do have an opening at 1:30 because of a cancellation. Could we defer discussion on that until 1:30 out of respect for the people who are here to make their presentation?

Ms Lankin: Absolutely. Thank you very much.

BEDFORD MEDICAL ASSOCIATES

The Chair: Representing Women's College Hospital, Dr Carolyn Bennett, Dr Bernard Marlow and Dr Rae Lake, if you could have a seat at the microphones. Welcome to our committee. You have a half-hour to use as you see fit. Any time you allow for questions will be divided up evenly among the parties, beginning with the government. The floor is yours.

Dr Carolyn Bennett: We welcome the opportunity to come. These hearings on the proposed Bill 26 have provided, I think, an opportunity for all of us in the trenches of health care to crystallize and articulate our concerns to one another, and we welcome the opportunity

to share them with you.

We are worried about the future of health care in Ontario, and although it said "Carolyn Bennett, Women's College Hospital," originally on the booking, more specifically the three of us represent eight physicians, two nurses and about 23,000 patients from all socioeconomic and multicultural groups and all parties. Bette Stephenson: I promised her I wouldn't wear my red jacket, even at Christmas. We believe that our patients happen to be some of the most knowledgeable, committed patients in the province, and we are coming to report that they're worried. In some ways, every day at Bedford Medical Associates is a small version of your hearings. We feel that we are every day receiving about 30 deputations each.

Our patients recognize that there isn't more money from government to throw into the health care system. They know we should start to begin to spend the money in the system more wisely. They are very worried that copayment systems will adversely affect the care of seniors and the disabled, and they are concerned about increasing bureaucracy it would take to administer those.

They really want to help. They do know that the status quo is not okay. They are ready to participate in a patient as partner model that we at Women's College have so desperately tried to achieve, and I believe the patients

know that means shared responsibility.

Patients I think are increasingly understanding of the difference between what they need and what they've come to expect. They want more evidence-based care, and they know they should be able to have their cystitis treated over the phone. The research says so. Why is money being spent on office visits and unnecessary cultures?

They want a system, a real system, that rewards good practice, where there is time to discuss disease prevention and health promotion and time to explain why an antibiotic won't work for viral infections. They respect the various roles in a proper multidisciplinary team and

recognize their needs can often be met by talking to the nurse on the phone.

They are extremely grateful for our 24-hour, seven-day-a-week coverage. They're grateful for the house calls we make, the palliative care, the family practice obstetrics and our association with a unique institution, Women's College Hospital, where they do feel safe, where they feel listened to, they know they've got choices and they know somehow it really is different. They are trained to studiously avoid walk-in clinics and phone us first. In fact, they've chosen a practice that refuses to sign out to an answering machine that tells them to go to the walk-in clinic or an emergency room and then blames the patient for doing it.

All three of us are assistant professors in the department of family and community medicine at the University of Toronto and on the active staff at Women's College Hospital. Dr Bernard Marlow, who will speak next, is also the director of continuing education for the department of family and community medicine and is a long-time Tory supporter. Dr Rae Lake is the director of the family practice obstetrics program at Women's College Hospital and a peer reviewer for the College of Physicians and Surgeons of Ontario. Perhaps more importantly, we all still make house calls, we all deliver babies and we spend a great deal of our time training family practice residents to do the same.

Dr Bernard Marlow: We agree with this government that the status quo is not okay. There have to be changes that will increase the audit and accountability in the

delivery of health care in Ontario.

I believe that the aims and objectives of the health care parts of Bill 26 are correct, but I voted for less government, not more, and I can't believe that a third of the budget of this province can be successfully micromanaged without adversely affecting patient care and increasing the bureaucratic headaches.

The minister, even one as knowledgeable as Mr Wilson, will never be able to have all of the information necessary to make the right decisions at the right time. We have witnessed time and again the difficulty that the ministry has had in physician manpower planning, often not being able to recognize underserviced areas because they often don't receive the information when doctors leave the country.

This bill places the Minister of Health in a very vulnerable position. Without the protection of credential committees, the College of Physicians and Surgeons of Ontario or other professional colleges, he will be at risk of unfortunate decisions because of lack of information. The information will always be more accurate on the ground.

There is a better solution. All we need is the willingness of the providers and the patients to design a system of incentives for quality care, and I think we're ready.

Primary care reform—hard-envelope funding—will achieve the same goals as well as achieve massive savings from the much smaller bureaucracy required by a decentralized system. Rostering patients also deals with the physician manpower issues and service for underserviced areas. Responsibility for appropriate laboratory investigations and referrals is much better dealt with by

peer pressure, such as that found in the GP fundholding model in Britain.

I've often been struck by the paradox of practice after 23 years of practising in downtown Toronto. I am expected to be a small businessman. I have to negotiate leases with a landlord, I have to hire staff and I have to meet payrolls every month, and yet I've been faced with increasing bureaucratization of my practice. I now feel like a civil servant, and yet I'm not treated as a civil servant.

Physicians across Ontario are under fire right now. They're under tremendous pressure. As director of continuing medical education at the department of family and community medicine, I can tell you that this is reflected in declining attendance in CME across the country, not just in Ontario. This is a concern to me as the director, but it should be a concern to all of you as patients. Your doctors don't have time to attend continuing medical education. We need a new system.

Doctors like those in our group are ready to leave their fee-for-service model and ready and willing to help. We want to work with government, our patients and the university towards a health care system of which we can

all be proud.

Dr Rae Lake: I appreciate the opportunity to speak to the committee about the health care implications of Bill 26. Like many responsible Canadians and Canadian doctors, I share the concerns about the cost of health care and about our ability to maintain a health care system in this province, and indeed in this country. Therefore, I'm here to outline some of the aspects of the bill that, in my experienced opinion, will make it impossible to reach or even come close to the government's stated aims and objectives.

Overall, I believe that the bill places far too much emphasis on micro-management of the system and of doctors in particular. Rather, you should be considering some of the basic elements that cause problems in the system and then tackle those in an orderly and appropriate manner. One, clearly, is that patients have not had the opportunity to work with their doctors in a way that would lower costs.

On the basis of my quarter-century in practice, I believe a more effective, cost-efficient system would be

realized by the following:

(1) The government should close all walk-in clinics. They are costly, inefficient and unable by their nature to offer effective care. In today's fiscal climate, the idea of patients popping in and out of doctors' offices is no longer practicable, and the vast majority of these clinics, certainly in this area, are open for business fewer hours than are many doctors' offices.

Furthermore, the most frequent resolution offered to patients who use them is a stopgap prescription of some kind or other, given with the suggestion to seek regular medical care. In other words, doctors in such clinics have no investment in the long-term health of patients or in the viability of a system that rewards them, as it were, for

piecework.

(2) Moreover, the walk-in clinic does not fit into a truly rational and cost-sensitive system. The Ontario College of Family Physicians has asked you to look at

rostering, the method of practice by which a member of the public is on the roster of a general practitioner and is required to look to him or her as the primary caregiver and referring agent. In such a system, the doctor has made a commitment to a population of patients based on community needs.

(3) It precludes solo practice, which in any event is an anachronism from an earlier day when geography, communications and primitive technology made it possible for a person working alone to maintain at least a minimal standard of practice. Realistically, solo family practice no longer makes health or fiscal sense. In fact, repeated research into costs show that it is the most expensive way of offering service to the community.

Supposing that instead the government mandated group practice, so that for primary care, a patient, once on the roster, would be assured not of always getting the same doctor but of being seen by a member of the same group. This would end an expensive form of family practice while assuring patients that a primary care provider was always available.

In large centres the result would be to take out an aspect of family practice that only encourages over-utilization. In small communities, particularly those in remote areas, the requirement for group practice would avoid some of the current problems of burnout, isolation, lack of professional stimulation and the like. Family practices in those remote areas would be placed by government regulation in towns where hospital services are available, and in fact might use space within these hospitals.

When referred to a specialist, a patient might seek a second opinion, but not a third or a fourth. Right now, for example, an expectant mother may audition as many doctors as she likes before making a choice of provider. That too is an anachronism, a luxury in a system that can no longer afford luxuries.

(4) Group practice puts enormous responsibility on family doctors to make sure they are well-trained and up to date, to ensure that they know the health care system and local specialists well and are able to recommend them. They would have to be willing to see the doctorpatient relationship as a partnership in which the doctor is open, non-judgemental and informative, and in which the patient takes responsibility for health maintenance by not smoking, by exercising, and for being candid with the doctor.

Finally, there are other steps the government could take to strengthen and improve the system. One of the most potent examples is to overhaul capitation. Dealing with capitation on a global rather than a doctor-by-doctor basis is not only costly, it is unjust. The dermatologist who overutilizes the system is not made responsible for his or her behaviour. Instead, the punishment is levied equally on that doctor and on those like myself and other members of the Bedford group who are doing their damnedest to make medicare work. Given computerization, keeping track of each individual doctor's billing would be a simple matter.

Consider an analogy: If the government were to cap members' expense allowances but not on an individual basis, making all members pay for the provable extravagance of the few, how would those who were frugal and cost-conscious respond?

Obviously, there is not enough time today to explore all the potential benefits of making family doctors and their patients responsible partners in primary care, but discussion about these and other rational and logical changes is long overdue. Thank you.

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Dr Bennett: We also want this committee to know that our patients are worried about the confidentiality issues in the bill and they have been relieved by the strong stand taken in the privacy commissioner's letter to Mr Wilson in response to Bill 26. The patients seem confident that the government didn't intend this and won't do this.

They are worried that the bill might mean that the Minister of Health could inadvertently dissolve a community-based hospital board that knew them and represented them and fold it into a large, faceless, monolithic institution unable to respond to their specific needs. Some patients are very conversant with the fact that economies of scale are difficult to defend in health care. They want the flexibility of smaller, well-run hospitals where they don't worry about falling through the cracks, yet they understand that linkages and cost savings must be explored. They are appalled that something such as the Metropolitan Toronto District Health Council report on hospital restructuring could be so flawed. Two years and \$5 million later, it is frightening to us as well as to them that recommendations could be made based on a complete overestimation of savings and an underestimation of the costs of implementing it. We know that those savings are achievable without those top-down decisions.

The patients are also worried that certain services may evaporate if the fee is set too low or zero, as recommended in the bill. They're very worried that the wonderful family practice residents they come to meet, who they recognize as practising a much higher standard of care, may not be able to practise, while those elderly solo practitioners that they worry their mother is still going to see are still able to practise at a much lower level of care. They had hoped that maybe they could get their mother to switch to one of our graduating residents. They have seen their mother prescribed too many drugs, asked to come in for results, prescription renewals and too-frequent blood pressure checks. They've seen her sent for too many tests and too many referrals. They don't trust that Bill 26 can really address these issues of quality and service.

We, as teachers of family medicine, worry that this bill will mean that our brightest and best residents will leave Ontario, as our chair, Dr Rosser, so eloquently predicted in his deputation. We also fear that the research and teaching part of our commitment will be accidentally ignored in the silo-within-silo budgeting process.

We know that the American HMOs have demonstrated 60% savings without compromising quality. I think we can learn from the mistakes made south of the border and that as Canadians we can add the compassion and accessibility we expect and design a great system.

I too believe that the time is short. We need serious change, and we need it now. We can't just tinker with

this system. We need real reform. We implore the minister to give those of us in the trenches a chance. Organized medicine has let us down. It has been ineffective and it has looked self-interested. It has been resistant to change and has been unable to harness the goodwill of patients.

We believe that the proposal of the Ontario College of Family Physicians should be implemented. We at Bedford Medical Associates would be pleased to begin the pilot tomorrow. We believe that the changes should take place without the powers contained in Bill 26. We suggest a fast-track of primary care reform. We believe we would be able to demonstrate the savings, improved quality, as well as patients and providers working together with government for real long-term solutions. We believe hard-envelope funding would enable dollars to finally follow patients. Great programs that attract patients would get more money. It's time that the market forces were applied to health care such that quality and value for money were rewarded.

The Minister of Health must be encouraged to decline accepting the extraordinary powers within this bill so that he can forge the true partnership that the health care sector expected from him. He has an opportunity to set an example for the rest of Canada. Carrots work, and sticks make people mad.

The Chair: Thank you very much. We've got about four minutes per party left for questions, beginning with the government.

Mrs Johns: Thank you very much for the excellent presentation. We learned lots about that, and we will certainly be considering a number of the things you've said.

I have a question about the general levels you talked about today, without talking about specifics. From the perspective of the government, we have been concerned about distribution. In all phases of government, no matter what political stripe, we have been, for somewhere in the neighbourhood of 26 years, asking doctors to solve the problem about us not having rural or northern doctors, and nothing has happened. We've asked hospitals to find some way to realign. As we've closed hospital beds, we've never turned off a light or closed a building down. If all those beds were in the same hospital, it would equate to I think 30 hospitals in Ontario. Why should we believe as government that things you have been unable to do for 20 or 30 or 11 years in the hospital situation will now be resolved?

Dr Bennett: Have you ever heard a group of fee-forservice physicians come to you saying, "Put us on salary"? Have you ever heard the fact that we actually want a health care system and that rostering patients will solve all your manpower problems? In the north, they can do whatever they want; they can hire nurse practitioners in that group, they actually get whoever's rostered to the group, and then they have to run quality programs in order to get people to roster with them, because otherwise the people will drive 100 miles to roster somewhere else that gives them better care.

This is going to be a long-term problem. It's quite clear that the OMA promised to look at this years ago and has been extraordinarily unsuccessful, but we believe

we have to start with which kids we take into medical schools, we have to stop closing the residency programs in Thunder Bay. Here we are from U of T but saying that giving all of us the residency slots and closing the ones in the north just doesn't make any sense if you want doctors in the north.

It's so ripe and ready. I don't think we've ever had an OMA primary care reform group that's about to deliver a paper that makes sense. The college of family practice for Ontario has never been involved in anything but education. All of a sudden it's saying, "Let's get on with real reform because it's good for patients, it's good for family physicians' education." Everybody's ready and I think Ontario can set the lead, and it's a very different time from before.

Mrs Johns: How about the hospitals too?

Dr Bennett: One of the things about closed beds is that it's a very old tool. When people start talking about closed beds to me, it just makes me go crazy, because what's happening in where those closed beds were is fabulous outpatient care.

In 1989, when Women's College was threatened, they said: "Go become more like the Mayo Clinic. Do more of your stuff as outpatients." Well, 48% of our budget is now in outpatients, and it's not even mentioned in the report. Outpatient surgery is a little more intensive, it can take more hours, but it needs the space to do it, so where there were inpatient beds are fabulous, exciting outpatient programs now. It's not a bricks and mortar issue; it's a matter of service and the way that service is being delivered now is very different. If we keep using the old tools, like closed beds, we aren't going to actually get at, what is patient care?

The hospitals. I think, are starting to come. They know we need hospitals without walls, need community-based service, need doctors to make house calls so these people won't actually be admitted to hospital any more. Everything that happens in the fee-for-service model gets in the way of that happening. Everything that would happen in hard-envelope funding rewards good behaviour. If you talk about prevention, the patients don't get sick or they know to call you before they get so sick that they might end up having to be hospitalized. If they can't get telephone advice, they sometimes just don't come in.

I think it's an exciting time, and the government has an

opportunity to really be a leader.

Mrs Caplan: Thank you very much for an excellent presentation. As a former Minister of Health, I agreed with just about everything you had to say. I hope this government listens to you, because I think sticks not only make people mad but stop good things from happening. I agree, we've never seen such a time when good things could happen, but if they pass this bill which is full of sticks, as I said at the beginning of these hearings, the well will be poisoned and those good things won't happen.

At the very beginning of your comments, you raised the issue of the administration of copay, the user fee for drugs, and also in hospitals and so forth. I've been thinking about what administration would be required to do that, and you raised that. Since there's been no discussion with the Ontario Pharmacists' Association, we

can only assume that they will be having some kind of bureaucratic mechanism, which is the micro-management you referred to, where people will likely have to come in and show their T4 or income tax forms to show that they earn either less or more than \$16,000 or \$24,000. They will have to find and have some mechanism for the collection of the deductible and the \$2. Have you had any information from the government—certainly we have not—as to what the mechanism might be? How do you foresee the collection of those and those decisions being made, and what size of bureaucracy would be required to collect all of that? Obviously you're worried about that.

Dr Bennett: We have a great relationship with one of the local downtown pharmacies that delivers for us, and I know that last night they expressed some serious concerns about it that we share, because we're worried that, particularly people with \$100 deductible, in the way that certain drugs are priced at the moment, that \$100 could be the first prescription we write for somebody and they might not fill it knowing that they don't have \$100—in the way that people with only a certain amount of money might just not fill it.

I think what the pharmacist was saying—what was he saying?—he's a little concerned that he is made the heavy in terms of the pharmacist saying, "You have to pay for this one." and I guess in the online way—what did they say, Bernie? They'll say on their screen whether this person is above or under and needs a copayment or

Dr Marlow: That's what I understood, that all the pharmacies in Ontario are now hooked into a central computer system and that they would be able to determine whether the patient was covered or not.

Mrs Caplan: So every pharmacist will have the income status of every patient in the province, that's what you think is being contemplated?

Dr Marlow: Or just whether they're in the deductible

Mrs Caplan: The suggestion then of the copay is that it will be collected by the pharmacy and submitted to the ministry. Is that what they think is going to happen?

Dr Marlow: No, they said the first \$100 was deductible and that the patient would require to pay them directly for the first \$100 with their prescriptions.

Mrs Caplan: And then the \$2 copay for those under the limit-

Dr Marlow: Would be collected by the pharmacist.

Mrs Caplan: And submitted to the ministry.

Dr Marlow: Or deducted from their payment by the ministry for drugs that were covered.

Mrs Caplan: I must admit that this is something that we have not heard from the ministry as to how they're going to go about doing this. I know there's been no discussion with the Ontario Pharmacists' Association or pharmacists so I'm curious as to what exactly they have in mind and what kind of bureaucracy is going to be required to try and implement something like that.

The Chair: Thank you, Mrs Caplan. Ms Lankin. Ms Lankin: Mr Chair, could I give notice that I

intend to table a question with respect to this matter? I'm giving notice because I see that Mr Paul Gardner from

the ministry is here, who I suspect can answer this question for us, and given that we have half an hour coming up and we only have one item of business, maybe we could invite him to answer that question at that time.

It was really wonderful listening to you and your vision about primary health care reform and rostering of patients and the hard cap. These are things that, with all due respect to Mrs Johns's questions, three years ago, in my experience there were very few people who were prepared to talk about that in real terms; and I think a lot has changed. I think we've all come to terms with the need for both government fiscal restraint and what it means in terms of various kinds of government programs. I remember saying at one point in time there's enough money in the health care system, we have to spend it differently. Everybody who's been coming forward to these hearings is saying that now. It wasn't the consensus back then. It is now.

Hospital administrators are coming forward saying, "We need to restructure." District health councils are doing studies and communities are saying it. We may not have the exact, right answers and we're still quibbling about that, but we all are accepting and embracing change and trying to find the answers. This is the time to call on the creativity of people, not to, as you say, use the sticks that are just going to get people angry and defensive and the results will be predictable; and that's what I'm going to ask you.

In the past when physicians haven't liked what government has been doing, it has been said that many physicians will leave the province. I know that if you look at the stats over the last 10 years in fact that hasn't been the case, it's been very stable. But this week I have heard from more physicians coming forward here, as their personal choice on this issue, they are now considering this, and that this isn't an idle threat any more, that this is real, that this bill takes it just that step too far. Is this real or isn't it? I don't know how to get you to answer that in a way that really convinces us this is not just an idle threat.

Dr Marlow: I personally don't know anyone who's considering leaving. I think we're down to the hard-core people. The ones who are going to leave have left; the ones who remain are firmly committed to this system and trying to make it work. I think the next generation, certainly the doctors who are graduating, will make the decision not to stay and we'll be faced with a serious physician shortage, a gap, in the future if this continues, but for those of us who have been in practise for 25 years, we've answered that question a number of times: "Should we go to the States or shouldn't we?" We've always said, "No, we're staying here and we're committed to making it work." That's why we're here today.

Ms Lankin: Let me ask you why you think the government is making some of these changes. For example, in the past if someone provided some information to the general manager of OHIP that they had reason to suspect a doctor's billings, that general manager would take the information, refer it to a Medical Review Committee, peer review. They have their own medical investigators. If they went through it and saw a need to do an investigation, they would do all of that.

Now, the change says that if the general manager has reasonable grounds to suspect on a number of grounds, that general manager will make a decision. He also has inspectors now, new powers—can go in and seize files, can do all of that sort of stuff, not necessarily medical inspectors, not like over in the Medical Review Committee—and they're going to make the decision. Then if you don't like it you can appeal it over here. Why would the government make that change? What are they trying to accomplish? What has been wrong that you know of that they're trying to fix with that?

Dr Lake: I think from the MRC point of view—that's the Medical Review Committee—the cutoffs are fairly high. In other words, you have to be really bad to have your name show up at the MRC level. I'm just second-guessing this government. I think what they're trying to do is set a wider net and pick up more of what is supposed fraud in the system that does not get picked up by the general manager in the computer. That's the only comment I can make.

The Chair: Thank you very much, Ms Lankin. Thank you, doctors. We appreciate your interest in our process and your coming here today and taking some time to present to us. Have a good day.

Ms Lankin: Mr Chair, I'd like to ask the ministry and Mr Gardner if he could respond to inform us what mechanisms the minister intends to put in place to collect the \$2 copayment from every ODB participant; the \$100 deductible to administer that for every ODB participant; to inform pharmacists of the cutoffs for payment of dispensing fees by those ODB participants who are over the thresholds; what information will be required to be shared with pharmacists about seniors' incomes; how seniors are going to be required to submit that information to the ministry and what bureaucratic departmental requirements there will be within the Ministry of Health to administer this.

I think that covers most of it. There may be a couple of odd pieces in there that you could fill in, in terms of how this is going to be implemented.

The Chair: Are you prepared to answer that now? Mr Paul Gardner: I'd be happy to provide the information before the end of the break. I believe we can have all of that within 25 minutes.

The Chair: Okay, we'll deal with this motion. Just to refresh your memory, I'll repeat it:

"Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available; and

"Whereas since Wednesday, December 20, when the matter was last discussed there have been over 200 more applicants for the out-of-town hearings and this is before the ads have been placed;

"I move that this committee recommends that the government House leader meet with the two opposition House leaders as soon as possible to discuss the time for public hearings and the form in which the bill gets reported back to the House on January 29, 1996."

Basically, can we kind of adhere to the same rules we had before where each person gets to speak once in the

interest of time and we wrap this up before the next presenter is due.

Ms Lankin: Thank you very much. I want to ask the government members of this committee who voted against a similar motion that I put forward on Wednesday to think about what they've heard over the course of this week. By my count, there have been roughly 80, plus or minus a couple, presentations made here this week. By my count, about 65 or so of those have not been supportive of this bill, another 12 have been supportive, but virtually all of those have had one or two areas that they also thought needed to be addressed, and then there are a couple of odds and ends in there, a couple of slots that weren't filled.

Of the 65, let me just concentrate on that, folks who were not supportive of the bill, you heard from virtually every one of those presenters that they didn't feel prepared to comment on the full aspects of the bill, they hadn't had time to read it and analyse it, that it was too big, it was too massive, just the health pieces that we have together here, let alone some of these groups have been trying to deal with issues before the subcommittee in the other room, that there was too much happening here for them to be able to have proper, informed opinions and to participate in an informed debate.

From virtually all of them, you heard, "Please split this bill and please give us a bit more time in public hearings." From the opposition you've heard, "We'd be willing to try and work through a process where the absolute essential things that are tied to the fiscal requirements of the government immediately could be carved out and dealt with," but there are many other large policy areas, and many other areas of bureaucratic changing and wording that, quite frankly, it has become very apparent to me, as I've been struggling to find out these things and understand that, that the members of the committee themselves from the government don't understand all of these things and are finding them out and discovering them along with me.

This is no way to make laws in this province.

When we discussed this on Wednesday, at that time, there had been 232 applicants for the 188 spots in Toronto. As of yesterday at 5 o'clock, there were 263. It had gone up. Now you might think that's surprising, because we've had a couple of spots that haven't been filled. Well, the clerks tell me they've been calling through the list and people are not home or they call them and some people say: "I can't get there that quickly. I can't get it together."

We had a woman this morning who stayed up till 4 o'clock last night when she was called last night to be here. I applaud her for doing that, but that shouldn't be the test of whether or not you're truly interested in participating. I'm very annoyed at one or two members of the government who have used the fact that there were some slots that we couldn't get people from the waiting list to come in and pick up right away on short notice as a reason to say, "See, people aren't interested." And that has been said.

I also believe very strongly that you have to look at what has happened over the course of the last two days with respect to the out-of-town hearings, and I draw this to your attention because there have been no advertisements to notify people in those towns yet of where we're coming, and that list of towns hasn't been published since the first week, the beginning of last week when there was a newspaper article that listed them. There has been no other communication out to people, and on Wednesday, I remind you, we had 396 applicants for 274 slots in the 11 cities that we're going to go to, as of last night, there were 599 applicants. That's 600 applicants for 274 spots, and the ads haven't gone in yet.

Let me just tell you that that's all as of 5 o'clock last night. This morning as a result of some of the comments that I just referred to a few minutes ago about spaces on the committee here, and therefore people aren't that interested, some of those comments that were made—there was an article in the newspaper talking about that. As a result of that article, the clerks tell me the phones have been ringing all day today for people to come in to be able to fill spots, to get spots in the hearings. People who hadn't been called back or who had not been home to get the call when the call came to them if they were on the waiting list are calling and saying, "Have I missed my chance?" You have to respond if you really are saying that you're listening.

I've heard a number of you say to the people who have been sitting here, thank you very much, and we are listening. If you're listening to their comments and their concerns about the legislation, why aren't you listening to their comments and concerns about the process and about the fact that they don't feel that they're prepared vet: that you haven't given them enough time; that squeezing in a week of hearings before Christmas, when people do have other things that they're trying to accomplish in their lives at this point in time and yet want to participate in this—haven't you listened to them that that is unfair? Now we're going to be off on the road in those communities that will have had a little bit more notice, but when the ads go in and we get another 100, 200 to 300 applicants, and we have 900 applicants for the 274 spots, what are you going to say to the other 625 people?

I hope what you're going to say is not what the Premier of this province says—"Put it in writing and send it in and the committee will consider it"-because you know as we are travelling on the road 11 cities over the course of the two weeks and we are sitting every minute in the hearings listening to people and talking to them and making notes of it, that we will not have the time to read hundreds and hundreds of written submissions before we go into the clause-by-clause analysis the week immediately following the end of the hearings. You know that all of that work that the Premier's asking people to put into written submissions won't get the attention that it duly deserves in this process because of the unrealistic time frames that have been put on such a large bill with so many policy ramifications. It's not that the time frames for committee hearings are abnormal in and of themselves; it's what you're asking people to deal with in that limited time that is significantly problematic.

When we moved this at noon and we were going to debate it at a quarter to, I popped up to my office to pick something up. A gentleman, Calvin Boise, had just got off the phone from speaking with my leg assistant. He is

from Hamilton and he was watching and he said, "I'm sending a letter immediately saying I want to support the motion." But he says, "Let me just say that just to go through the health-related section," because he was just going through the bill as he was watching these hearings, "and to understand this piece of legislation, it has taken me personally six hours of manpower and time," and he proposes extensive numbers of hours on this section alone. He is going to be appearing before this committee. He is one of the lucky ones; at least he thinks he will be. He's applied to see us in Hamilton. We don't know whether he'll be one of the ones who will get on or not, because there are many more people in Hamilton who have applied to come before the committee than the number of spots that are available. I hope we will have the opportunity to see him there.

I want to just wrap up by reminding the government members of this committee what the motion actually says. It is not asking this committee to decide that the hours of hearings be extended. It's not asking this committee to decide that the bill be broken up. It's not asking this committee to decide in what form the report from the committee should come back to the House on January 26 in the event of the possibility of extended hearings or splitting the bill. It's only asking this committee to recommend that the government House leader sit down and meet with the other two House leaders to discuss this in light of what we have seen in terms of volumes of applications to come before the committee, in light of what we have heard from 90% of the presenters to the committee this week. If you are truly listening to what people are saying, I don't see there's any way that you can vote against this motion.

call voic against this motion

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The Chair: Thank you, Ms Lankin. For the government, Mr Clement.

Mr Clement: Thank you, Ms Lankin, for your views on the matter. Unfortunately, I don't feel obliged to support the motion as you have presented it to us. I disagree with your premise. I do not feel comfortable being part of a committee that is going to recommend something to the House leaders or to the government House leader when I disagree with its premise, so I'll be voting against the motion for those reasons.

You spoke, first of all, about the quality of the presentations, and we have heard some presenters expressing some frustration, I acknowledge that. But from my perspective, the quality of the presentations has been excellent. People have been able to review the legislation, come forward with excellent commentary, excellent critiques in some cases, and excellent suggestions for change. So from my perspective, the process is working.

We are hearing from a multitude of different groups, both the stakeholders that one would expect to see at a gathering such as this, such as the Ontario Hospital Association, the Ontario Medical Association, and those large groups that represent large chunks of the health care sector. We have heard from those groups but we've also heard all the way down to individual doctors; in a couple of cases, wives of doctors; in a couple of cases, patients. We've seen the gamut in the Toronto hearings, and this is just the Toronto hearings. We've got 11 other cities to

go to where I suspect the range of presenters will be as wide and as broad in terms of representing their respective communities. So I'm quite looking forward to getting that breadth of commentary, the breadth of input that we have had in the five days to date.

I should place on record that as far as I can determine. no one on the government side has ever said on record, that I can detect, that we are somehow happy that the slots were not filled or that this proved that no one was interested. I've detected a great deal of interest from the community, but it's been a broad range of interest. We have heard deputations from persons who acknowledge the need for restructuring, who see the need for change. They see the need to change the status quo, which doesn't exist anyway because it's a deteriorating status quo, and they are quite looking forward to a government that will actually be the impetus for change in the health care system not only for government's sake but for taxpayers and for patients who use the health care system. So I extract from them a sense of urgency. There is a sense of urgency out there and a sense of frustration. I've sensed frustration as well from persons who have been part of the process to change our health care system for 10. 15. 20 years, and I think they're almost going to throw in the towel and say we'll never change the system.

They have come before us, a gentleman last night springs to mind, and said, "Finally, a government that's actually going to put the tools in place to do something to get us out of the hole that we're in, that is detracting from patient care in our system." So while Ms Lankin, quite rightly, from some of the presenters has detected a plea to expand and extend this process, I have detected from other presenters an urgency to get the job done.

Finally, I repeat what I said two days ago: In the past two parliaments, no committee, no bill before us as legislators has had more committee time than this bill and this committee. We are satisfied with the process and we want to continue.

Mrs Caplan: Listening to Mr Clement, who speaks on behalf of the government, I have to say at this point, after a week in this committee, it doesn't surprise me and I'm not surprised they're not going to support this motion. It was this government's intention to have this bill done, passed, finished, by Christmas without public hearings across the province. I understand that, but I had hoped, because there were occasions when the government members said, "We're here, we're here to listen, we want to hear what people have to say," I thought they might have, through this process, recognized that one of the things people were telling them was that they hadn't had enough time to prepare or they were just beginning to understand the implications of this bill. In fact more people than I think any of us anticipated, or could have anticipated, particularly at this time of the year, would have wanted to come before committee, and I would have hoped, having heard some of the comments of the members on the government benches, that they might have considered that, because the only thing that the motion before us is saying is to ask the House leaders to be aware of what is happening at these committees and consider additional hearing time to accommodate those

people whose consciousness has been raised to the impact of this bill.

Let me tell Mr Clement and the other government members of something that happened to me last evening. I was talking with some people who said: "Let's see if I understand what's happening. This isn't a specific policy that you're talking about, is it?" I said, "Well, they're calling it restructuring." They said: "Well, what exactly does that mean? What are they going to be able to do with these tools that they're talking about?" I said, "Well, that's the problem," because no one on the government benches has been specific as to what these tools that we call powers can actually do.

When we ask a question such as the question that I asked about physiotherapy—and the answer was just received today. The question was, "Can physiotherapy be included in this bill?" We know from the reading of the bill that it can be in an independent health facility, and you say to the government, "Are you intending to include physiotherapy?" Or as I mentioned to chiropractors, they could be included in this bill. "Is the government intending to do that?" The answer that we get is: "Well, we really haven't decided. We're considering it. We're not considering it at this exact moment, but we'll have the tools and the power to do that without ever having to hear from chiropractors or physiotherapists or anyone in this province who is now not included in an independent health facility but delivers an insured or an uninsured service." They can, at the stroke of a pen, by regulation, be included in a bill that they don't believe has any impact on them, because these are tools to restructure.

So people are just beginning to understand that it might affect them, and they want the chance to come before this committee and ask those questions, because the other thing that they're beginning to understand is that while it may not affect them today—it may not be this minister's plan—once those tools, those powers, are in the hands of the minister and the government, any future minister and any future government will be able to use those tools without scrutiny, without process, without hearing. And so this, Mr Clement and Mrs Ecker and Mrs Johns, is their only chance to come and have a say.

We have on the list requests from 850 individuals and organizations, and we can accommodate here and across the province about half, and we have not yet advertised in those communities across the province. We've just about completed the week of hearings here in Toronto and we have only heard from half of those, because we know that there are two more weeks across the province. There were 263 people who have applied here to be heard, and we know that we have heard from, and we will have heard—I want to be absolutely clear. I believe the number that we will not have heard from-let me put it that way. There will be 136 individuals and organizations who applied to be heard here in Toronto that will not be heard. There were no advertisements here in Toronto, and the phone calls are coming in every day, every minute of every day, as people start to realize that. That's Toronto.

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In Sudbury there are already 89 requests; in Thunder Bay there are already 44 requests; in Ottawa there are already 73 requests; in Kingston, where we're only going to be for half a day, 35 requests; in Peterborough 37 requests; in Windsor 60 requests; in London 70 requests; in Kitchener 47; in Niagara Falls 37; and in Hamilton 95.

There have been 587 requests for 274 spots in 11 communities across this province and we haven't advertised yet. This is the only chance people will have to come before a committee to talk about these enormous, broad, unprecedented, sweeping powers that you call tools.

Mr Clement, I've been here 10 years. We have seen numerous omnibus bills and we have seen numerous bills before committee that deal with policies individually, such as the Independent Health Facilities Act, and when you say that this bill will have received more time than any one bill, that is correct.

Almost all of the omnibus bills ultimately had no controversial parts to them—most of them. Most of the omnibus bills that were finally passed by the Legislature in the 10 years that I have been here had all the controversial sections removed from them before they were passed, so they required very little committee time.

The policy bills, whether it was health policy, whether it was labour policy, whether it was social policy or justice policy, most of those bills dealt with an issue like drugs or changes to the Public Hospitals Act or independent health facilities or substitute decisions, consent and advocacy, and the list goes on and on. You can review the legislation to see all the different kinds of legislation.

The Chair: Mrs Caplan, can I interrupt you for just a second, just to kind of make you aware that we do have eight groups and we've committed a half-hour to each this afternoon and we have to stop at 6. That's the standing order we're operating under. I would hope that we wouldn't infringe upon any of their time.

Ms Lankin: Mr Chair, we committed to be done by

The Chair: Okay. I just want to make her aware of the fact

Ms Lankin: It's not 1 o'clock yet.

Mrs Johns: Two.
Ms Lankin: Two, sorry.

The Chair: I just want to make you aware of that.

Mrs Caplan: Thank you very much. I will not go on much longer, but I feel very strongly about this. Never before, in the 10 years that I have been here nor in the history of this province, have we ever seen one bill with 211 pages that covers 47 different pieces of legislation and all of the different ministries. Not that we haven't seen that many covered, but this is the important part: such significant policy issues and such significant potential as a result of the powers that you are conferring on your minister, not only your Minister of Health, which this committee is dealing with, but the Minister of Municipal Affairs and other ministers.

If this was just health, if this was just health alone in this bill, I would say to you, Mr Clement, that not only should the bill be divided so you could have the time, but if you refuse to divide them you must give people who realize how these powers could potentially impact on their lives a chance to come before this committee, because they will never have the chance again.

I think it's very reasonable for this committee, which understands, is beginning to really understand the tools that you have asked for and the impact on the lives of the people of this province—it's reasonable for us to ask the House leaders to consider some additional time. That's

the democratic thing to do.

Mr Alvin Curling (Scarborough North): Could I just have a minute? I know that Ms Lankin needs the time to wrap up, but I just wanted to say to you how strongly I feel about this. I'll just take up on the point that Mrs Caplan had mentioned, that this is a motion asking the government and all of us to recommend to the House leaders for extended time. You're not making a decision, one way or the other, that this should happen. Leave it to the House leaders to make that decision that the committee has recommended.

We are in the trenches here, seeing those people coming here. I feel very, very passionate about this, because the fact is we know that people have been calling them in and out of committee, because people have been calling me, saying they got calls last night to present today and haven't had the time. I've known people who have withdrawn because their advisers told them that this has a profound impact on them, and if they're going to present, they must present something that is authentic and able to present their case in that kind of manner.

We're asking and urging for that democratic process, by your common sense, by basic common sense and your Common Sense Revolution that you stated, that you want participation here. People are feeling very hurt. You know that today this bill would have been law and you have said how impressed you are about the excellent presentations that you have had, that you expect, and many thousands out there who would like to participate.

Allow the people to have that democratic process. All this committee is doing is recommending to the House leaders to do so. Don't snuff it; don't strangle it. That's all I'm asking. I strongly support this motion put forward

by Ms Lankin.

Ms Lankin: Mr Clement, I'm distressed to hear the reasons why you won't support this and I hope your caucus members are not of the same mind. I heard you say that you had been listening. I heard all of your members say to groups that have sitting here that you have been listening to what people are saying, that you appreciate their participation and you're listening, that the government is listening. Then I heard you say just a few minutes ago that yes, you heard some groups talk about frustration with the amount of time they had, but that you equally heard groups come forward and urge you to get on with it, urge the government to get on.

I told you at the beginning that I've counted up about 65 groups that have come forward not supportive of this bill. The vast majority of them have asked you to split this bill and to give it more time. Of 12 groups that came forward that are supportive of the bill, some still want amendments within it. My recollection, and I am going to go through the Hansard and check this, is that there are about four or five of them who said, "Get on with it and do it and pass it right away," others didn't comment on that issue and some of them who were supportive even

said they understood the complexity of it and that groups were having trouble responding to certain areas.

If that's how you're listening to people and if that's what you've heard out of the course of this week, I fear for what we're going to have to deal with when we get into clause-by-clause, because I suspect you're not listening at all to those people who aren't coming forward and simply agreeing with your government. That's what it sounds like to me.

Mr Chair, thank you for the opportunity to have spoken on this. I hope that the other government members will see fit to vote differently from Mr Clement. I would ask for a recorded vote on this.

The Chair: A recorded vote's been asked for. All those in favour of Ms Lankin's motion?

Ayes

Caplan, Lankin.

The Chair: All those opposed?

Nays

Clement, Ecker, Johns.

The Chair: The motion is defeated.

The answer to the question that was put forward—would you come forward to one of the microphones,

please, and introduce yourself.

Ms Mary Catherine Lindberg: My name is Mary Catherine Lindberg. I'm an assistant deputy minister for health insurance and related programs in the Ministry of Health. As I understand it, the questions are related to the drug program and the implementation of the copayment and deductible.

As you know, the copayment will be based on an income. The people receiving social assistance, single seniors with less than \$16,000 per year and senior couples earning less than \$24,000 per year, residents of nursing homes, homes for the aged and home care, will all pay \$2 each. That \$2 comes off the dispensing fee. The current dispensing fee is \$6.11. The pharmacist will be paid, by the ODB program, \$4.11. They will collect the \$2 from the recipient. Pharmacists could waive that \$2, pharmacists could make it a dollar, but the dispensing fee paid by the ODB will be \$4.11. The maximum that can be charged is \$6.11. Is that clarification?

Mrs Caplan: Have pharmacists been notified of this or is this the first time they're hearing it?

Ms Lindberg: The pharmacists were notified on November 30. It's not to be implemented till June 1, 1996, so the introduction of the first copayment will be June 1

On the \$100 deductible for those seniors over \$16,000 and \$24,000—and because it's not being implemented until June 1 we haven't worked out all the details—what we hope to be able to do is to put the notification to the pharmacists on the drug network, so that when you key in the health card number, the information will come back as to how much money you have currently put towards your deductible, up to \$100. If your prescription is more than \$100, you will pay the portion that is more. Say you were at \$95 and the next prescription was \$10;

you'd pay \$5. You would not pay the dispensing fee or anything else at that point until you had paid the \$100. That notice will come down on the network, so the pharmacists will not access income information.

Mrs Caplan: Let me clarify. On the network across the province, in every pharmacy, when someone goes in to ask for a prescription, the pharmacist will know how much they have to pay as that deductible automatically across the whole network?

Ms Lindberg: Yes, up to the deductible. It will be cumulative, yes, up to the \$100. After that-

Mrs Caplan: And they will also know whether the person is under or over the cutoff of \$16,000?

Ms Lindberg: They won't know the income. They will know whether they're eligible for the \$100 or eligible for the \$2. That's all they will know.

Mrs Caplan: How are you going to determine that income level of whether or not the \$16,000, \$24,000—are you going to require income testing?

Ms Lindberg: We will require income information, as

we do currently with the Trillium program.

Mrs Caplan: How will they do it? Will they do it on their income tax forms?

Ms Lindberg: Currently, we use the income tax form for the Trillium program and we will continue to use that form, but it's not given to the pharmacist. You don't take your information in to the pharmacist. It's all done through an application process into the ministry.

Mrs Caplan: So everyone now who believes they are eligible will have to fill out a form and send it in to the ministry. How many people do you think it's going to take, Mary Catherine, to administer that?

Ms Lindberg: We have not worked out the details,

and what we hope to do-

Mrs Caplan: So you have no idea of the cost?

Ms Lindberg: We haven't worked out the details of how we're going to do the information and how we're going to put that information. There are a number of ways of doing that, such as just having people declare their income, sending in a letter with a declaration of their income, so that there is an individual declaration. We could do some kind of income-sharing—

The Chair: Can I just interrupt this a bit.

Ms Lindberg: —but we have not made up our minds. Mrs Caplan: You haven't made up your minds.

The original questions have been The Chair: answered. We are here today basically for public input, so I would thank you very much for your answers.

Ms Lankin: I appreciate your ruling, and may I say that I don't think my original questions have been answered and that I didn't get a chance to ask any. You seem to forget that it was I who asked the questions. I respect your ruling that we proceed at this point, but I would ask that perhaps Mary Catherine undertake to provide us an extensive briefing in writing on this matter.

Ms Lindberg: Will do.

The Chair: So we can get that in writing. Thank you.

PHILIP BERGER

The Chair: The next presenter is Dr Philip Berger. Welcome to our committee, sir. You've got half an hour of our time. Questions, should you leave time for them, would begin with the Liberals. The floor is yours, sir.

Dr Philip Berger: Thank you very much. My name is Philip Berger and I work at the Wellesley Hospital in Toronto, Ontario, I would like to begin my presentation by again keeping a promise to a patient, one of those ongoing agreements we occasionally make in life to people who are dying, never knowing really how to keep the promise after the person dies.

My patient's name was Clarice. She died of AIDS in May 1994. Clarice came to Toronto from Nova Scotia in the early 1980s and became addicted to heroin shortly after her arrival. She was the second patient for whom I prescribed methadone, a very successful treatment for heroin addiction. That was in late 1991.

She remained on methadone and abstinent from heroin until her pain from AIDS required a switch to a continuous morphine infusion, which she took until her death. She had been struck with a debilitating peripheral neuropathy, a condition which produced a fiery pain down her legs and eventually paralysed her. Clarice died from progressive multifocal leukoencepalopathy, or PML, an unusual AIDS complication which punches holes at random in people's brains. She died hallucinating and in a psychotic state. She also died at home, in my neighbourhood, six blocks from where I live. She died, as they say, in my backyard.

A few years prior to her death, Clarice made a candle for me. When she gave me the candle, she said, "Light it and remember me." I promised her I would. I want to light this candle now and, as I talk, hope it will remind all of us that Bill 26 is a lot more than a debate about amendments to legislation or testing political and economic theory on an unwitting populace. It is about real people and, in the case of health care of which I will speak, sick and scared people, bewildered by the government's proposed accumulation of state power, state control, over their lives.

Although some might say Clarice deserved her fate, once off heroin she became, as the preachers would say, repentant. She sought the solace of religion and God. She had been raised in a fairly devout and loving Catholic family and she reunited with her family a few months before her death. She could have been a member gone astray of your family or mine.

The omnibus legislation covers many subjects which would have affected Clarice and will affect other vulnerable people. I'll discuss only four specific elements in Bill 26 which are of particular importance to the patients I see: first, the amendments to the Ontario drug benefit plan; second, the bill's provisions for government access to private health care information; third, the government's proposal to determine what is medically necessary for Ontario's citizens; and finally, the proposed power of government to decide which services people receive based on their age.

The Minister of Health, Mr James Wilson, spoke on Monday about a \$2 user fee for each prescription filled by people on social assistance. He claimed—estimated that one half of those single persons on social assistance would pay \$8 per year under the plan. I cannot speak to the veracity of the minister's claims; even he admitted it was only an estimate. But I can tell you that for Clarice her cost under the new plan would be \$30 per month, or \$360 per year, 45 times the minister's estimate. That holds true for my patients not just with AIDS, but with other terminal and chronic illnesses.

The minister, even if he believes in user fees, has applied the principle of user fees in an erroneous fashion. User fees have customarily been instituted to dissuade people from using services inappropriately, to compel people to more carefully consider the use of services. What choice does a chronically or terminally ill patient have when a doctor recommends a treatment, a prescription? For that matter, what choice does any patient on social assistance have in regard to prescriptions? Does the minister expect patients to disregard the recommendations of their physicians? The only consequence of this legislation is that social assistance recipients, who are the citizens with the most illness in our society, will not take their medications, placing them at higher risk for complications, serious illnesses or hospital admission.

Further, the Minister of Health has spoken publicly of patients bargaining and negotiating the best price from pharmacies for medications prescribed by physicians. Is the minister really serious? Can you imagine an 80-year-old woman hobbling from drugstore to drugstore trying to strike the best deal for her four different heart medications or the cancer patient requiring morphine exerting some kind of leverage on her local pharmacist, particularly in smaller communities where there might only be one pharmacist? Life-sustaining medications are not like shoes or kitchen chairs; the patient whose life depends on drugs is hardly in a fair position to make deals with their local pharmacist.

The Minister of Health appeared defensive in his comments Monday on patient confidentiality. No wonder. Look at the provisions, whether under schedule G, section 12, of Bill 26, amendments to the Ontario Drug Benefit Act, or schedule F, section 34, amendments to the Independent Health Facilities Act, both of which provide unconditional power to the minister to collect and to disclose personal information to everybody and anybody. And of course, under the schedule H amendments to the Health Insurance Act, government employees can walk unannounced into any doctor's office clinic or hospital and seize the medical records, the charts of Ontario citizens.

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The minister can inform anybody of the private and personal information contained in records of drugstores, independent health facilities, family physicians' offices, outpatient departments or records contained in the operating rooms of Ontario's hospitals—and I mean, inform anybody. The minister himself said so on Monday. He could tell Correctional Services employees or, worse, private insurance companies information contained in all those records. Can you imagine? In the late 1970s, Mr Justice Horace Krever, who now is heading the inquiry into Canada's blood system and AIDS, authored a seminal work on patient records, including the unauthorized disclosure of information to insurance companies. This government seeks to make legal provision of medical records without patient consent to those same insurance companies. And all the minister can do is to compare the alarm at unprecedented government invasion of privacy to a red herring.

On Monday the minister also spoke of "continued physician disengagement from the rest of the health care system," of the "lack of...incentives to...encourage appropriate care," of "inappropriate billings" by physicians, of "excessive referrals for lab tests or imaging tests..., and for consultation to other physicians." And in public statements he has spoken of fraudulent conduct by doctors. It is a serious matter when a Minister of Health promotes fear and doubt in the minds of already anxious patients who must now wonder whether their doctors are prescribing proper therapies or are committing criminal acts

What does the government proposes to substitute for the decision-making skills of physicians? Under schedule H, section 11, amendments to the Health Insurance Act, government employees will determine necessity and payment of medical services based on:

"Frequency" of provision of insured services; Ontario

citizens better not get sick too often.

"The period of time when the insured service is provided." What could that possibly mean? Do not get sick during the Christmas holiday; it might not be an insured service?

"Such other factors as may be prescribed" by the minister. God knows what that could be. Your guess about these unknown factors which determine coverage for doctor visits or operations is as good as mine.

Further, under schedule H, section 18.2, it will be the Minister of Health and his employees who will determine if referrals to specialists from family practitioners are necessary. I am not exaggerating; read the omnibus legislation. Gone will be the days when citizens can act on their family physician's recommendation to see a specialist for that mark on the skin that could be skin cancer, that lump in the breast or that profound depression. It will be the government, without examining the patients, that will determine what is best and what is needed.

That is not all. Senior citizens and citizens of any age should pay particular attention to schedule H, section 7 of the bill's amendments to the Health Insurance Act, which defines insured services. It says, in regard to OHIP-covered services, "Such services are as may be prescribed are insured services only if they are provided to insured persons in prescribed age groups." This amendment is unambiguous. The government and Premier Michael Harris, who leads the government, want to determine OHIP coverage, coverage of lifesaving, life-sustaining treatments, on the basis of age. It cannot mean anything else.

Does Mr Harris really believe that a 70-year-old citizen does not deserve heart bypass surgery because of her age, that an 80-year-old retiree of modest means does not deserve kidney dialysis or that the 90-year-old, previously fit grandmother should not get lifesaving treatment for her pneumonia. Do not tell me that I am confabulating or misinterpreting. The omnibus legislation says that OHIP coverage will be dependent on the age of the person receiving the medical care. What does the Premier have to say about that?

The Premier's Minister of Health spoke on Monday of so-called special-interest groups "greasing their wheels, with the squeakiest getting the most grease," and he reiterated that his "government is not going to give special treatment to people who shout the loudest."

But all the same, Premier Harris proposes to give special treatment to the poorest and sickest: He seeks to make it difficult to get the medicine they need. He proposes special treatment for private pharmacy and medical records: He can disclose personal information to whomever he wants. He proposes special treatment for medical therapies that people receive: He can deem them unnecessary and charge doctors the cost. Finally, he proposes special treatment for our elderly: In fact, he proposes no treatment if Ontario citizens are too old.

As for squeaky wheels, well, the Minister of Health does not have to worry about Clarice. She is dead. And with that, I will blow out the candle and hope I have kept my promise to her. Thank you for listening to me.

The Chair: Thank you. You've allowed about five minutes per party for questions, beginning with the Liberals. Mrs Caplan.

Mrs Caplan: I don't think that people understand the implications of schedule H, section 7, subsections 11.2(4) and (5). Can you give us some examples of what kind of explicit rationing on the basis of age could result if an insured service were defined for someone in an age category? For example, you referred to heart bypass legislation. Is it your reading of this that they could decide that over the age of 70 or 75 it would be an uninsured service? Dialysis treatment? Kidney transplant?

Dr Berger: This legislation is completely clear—there is no other way to interpret it—that the minister will be able to decide what is insured and what is not insured based on a new factor, and that is the age of the person. In the medical literature and in the lay media for many years there have been debates about the so-called cost-effectiveness of providing certain treatments to people who are older. The classic ones that come up are bypass surgery, transplant surgery, dialysis and—I do not exaggerate—even treating pneumonia in someone who is very, very old. Being old does not mean one is disabled or necessarily sick. Someone who's 75 could live to 90; someone who's 80 could live to 100.

Under this legislation, the minister will be able to say, for example with dialysis: "No dialysis for anybody above the age of 80, period. You can pay for it yourself if you want to, but it is no longer an insured service once you hit that age."

Mr Curling: Doctor, you have blown Clarice's light out, but I know you have lit, I would say, thousands of people's lights because we basically on the opposition side will continue to light that candle and maybe the fire under the posterior of the government, that the people's voice will be heard.

What confuses me all through this process is, why would the government, and maybe you may give me some insight on this, want this power? I know they say it's to balance the budget and to pay off this deficit, but would you have any views on that, on why they would want to amass this power for themselves?

Dr Berger: I've never spoken to or been asked by anybody in the government about my views on any of these matters, so I really don't know why. I hear the argument of paying off the debt and deficit, but in my judgement, the only thing that the government is doing is selling the soul of Ontario, and there's no price that anybody can put on the soul of this province. To me, the deficit-and-debt argument does not justify such massive centralization of power and utter and absolute control over the lives and the deaths of the citizens of Ontario.

On a personal note, I'm flabbergasted just from a point of understanding what I always thought the Conservative Party was about, because Conservative Party spokespeople—and I've spoken with them; I get along with them. I'll speak to anybody; I'm not a member of any political party, as I think this side of the table knows. I've been critical of every government in this province. But I always have understood the Conservative Party's platform to be a devolution of state power, about letting people and communities control their own lives and make their own decisions, not amassing central power with the government and making decisions on behalf of people. That's the best insight I can give you.

Mr Curling: Doctors especially have had extremely confidential matters with their patients, and I know they hold that very close to their hearts and souls. The concern that people do have—the privacy commissioner established that—is that this can be extremely dangerous. Do you see any sense really of passing this kind of information on to bureaucrats or to politicians?

Dr Berger: It's beyond that. The minister scared me when he talked about passing it even further, to insurance companies, because once that information hits one insurance company, it's all over the western world and can go absolutely anywhere.

I should tell you that in 1984 I appeared before a parliamentary committee and a Senate committee on the Canadian Security Intelligence Service. I studied that legislation very closely and I went in there on the point of access to medical records, and it is much, much more difficult for a security agent of this country to get medical records than for this minister to get medical records. The only reason a state security agent can get medical records is if there is a threat to the national security of Canada. I don't see anything in Ontario that is equal to a threat to the national security of Canada. I'm talking about invading countries—that's the type of threat they look at—or subversive groups attempting to overthrow government.

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I have no objection to the government attempting to end fraud or to prevent people who don't deserve OHIP numbers from using them. That does not require the widespread dissemination of information and the powers to do that that this government wants. I normally have a pretty thick skin and I'm not too offended by anything politicians have ever said, but I was amazed the morning I woke up and read the minister's comments that seemed to say that all doctors in Ontario were committing fraudulent behaviour. I say to the minister, produce the evidence if there's widespread and massive fraud and charge the doctors if they're committing fraud, but don't

go to the citizens of Ontario and say, "Your doctors are committing fraudulent behaviour when they see you in their offices."

Ms Lankin: Dr Berger, thank you for being here. Thank you for being in this province and continuing to stand up for medicare and for what you believe in and what's best for your patients. I appreciated it when I was minister, even though there were times it was tough to find the answers. For example, we have the beginnings of a methadone treatment program in this province today because of your work and the others who supported you.

I just say, please keep it up.

I want to come back to this issue about age, but I want to come at it in a different way and explore this with you. When I first read this, I was a little disturbed as well. It was pointed out to me by a member of the media. You should know that we are all trying to understand this and we're all helping each other get through this, trying to find the different parts of the bill. In the old act, in the regulation prescribing powers, there was the power to prescribe in regulations services by age. It's now been imported into the act directly in this section; that's section 7, the amendments which create a new 11.2 in the Health Insurance Act. But I want to tell you what hasn't been imported with it.

They repeal a section in the regulation making powers that was there, under subclause 45(1)(j)(ii). There's a paragraph that follows that which says, "but no service or age group shall be prescribed under this clause that would disqualify the province of Ontario, under the Canada Health Act, for contribution by the government of Canada because the plan would no longer satisfy the criteria

under that act."

There's another piece in this omnibus bill under the Health Care Accessibility Act which allows, again by prescribing in regulations—this is section 39 of the bill under the Health Care Accessibility Act, on page 114 of the omnibus bill. It's clause 9(1)(a), "prescribing insured services for which hospitals may charge insured persons."

I got really nervous about this, and I asked and found out that what it's intended to do is that there was a regulation under the old act which said hospitals couldn't charge for insured services, and one particular hospital has threatened to sue the government saying, "You can't do that." This is to give the government the power in the legislation to prescribe in the regulations what hospitals may charge for.

I asked, "Why wouldn't you simply say they can't charge for insured services under the act?" They said, "Well, there is one under the Canada Health Act that you can: copayments for chronic- care beds." I said, "Why don't you say that's the only one you can charge for," or "Why doesn't it say here you can't do something that's

contrary to the Canada Health Act?"

I put this to you (1) because we're all scrambling to figure out how these different pieces fit together and (2) because I'm coming to the opinion that references to the Canada Health Act are being pulled out here, there and everywhere. We heard the Minister of Finance last week say, "We want flexibility on the Canada Health Act." I think they're preparing for that flexibility to be able to do something which would create the two-tier system we all fear.

Without the protection of the Canada Health Act, what would happen with medicare, and what you think that means for the health of the people of this province?

Dr Berger: In my judgement, the Canada Health Act, through its five principles, guarantees a system that is accessible to all and provides more than adequate health care to all. If there were not a Canada Health Act, this province and other provinces would be free to play a little or a lot with the system in whatever fashion they felt.

Because of the time limitations, I did not go into the many clauses in this legislation that permit massive privatization of our health care system. There are some very scary clauses lost in-and this is very difficult to read, I have to tell you. I'm an ordinary citizen, and this is the most difficult document I've read in 20 years of trying to be a responsible citizen and follow legislation. You have to have four dozen pieces of other laws around you on the table to cross-reference. I think that's disrespectful of the citizens of Ontario—I'm not talking about elected politicians and bureaucrats; I'm talking about ordinary citizens, and I am an ordinary citizen—who actually are trying to do their duty as a citizen and understand the laws that are being passed around them. It's disrespectful to put something out like this. It should be readable.

What is in here in different sections are provisions that would lead to privatization, and without the Canada

Health Act it would be easy.

I should also add in regard to your comments that if it is really true that the Minister of Health only wants these powers for very narrow, narrow purposes, why doesn't he just come out and do it in legislation instead of terrifying the population? These are open-ended, unconditional powers and I—

The Chair: Thank you very much. We'll go on to the

next question, the government.

Mrs Ecker: Thank you very much for coming, Dr Berger. It's good to see you again. We appreciate the passion and the concern with which you express your views, some of them, you may not be surprised to hear,

that we do not completely share.

I would say there were references to prescribe groups by age in the previous legislation. There is also an attempt in the new legislation to preserve the Canada Health Act because this government is going to abide by the law and the Canada Health Act. I would also say that decisions as to "medically or therapeutically necessary" are ultimately judged by peers from the Medical Review Committee. I do believe there are checks and balances within this legislation.

I know from previous meetings and presentations and submissions you have made that you have frequently expressed the concern that there are not enough physician resources in the area of HIV primary care. One of the things the minister has said he would like to do is to reinvest more in the HIV primary care area. I wondered if you would comment on the kinds of reinvestments that are needed in that area. Second—many governments have tried to do this; we've all wrestled with it—how do we get those resources out of some of the other areas into areas where there is a priority, for example, HIV primary

care? How do we get some of that restructuring going on? We've had many areas that have tried to restructure that have said we need mechanisms to get on with it because there are roadblocks to that. I just wondered if you wouldn't mind commenting.

Dr Berger: I'd first like to make two personal comments. I know Ms Ecker and I've always respected her professionalism and the work she's done with the College of Physicians and Surgeons. She's been personally helpful to me in several cases we've dealt with. Secondly, I have to say about the minister—it's important to give praise as well as criticize, and this minister has so far done well in the area of HIV-AIDS. In my own hospital, he provided an exemption to an out-of-province physician because we were looking for an AIDS doctor for a year and a half for our hospital and couldn't find one, and on October 12 he signed an exemption giving this doctor a licence to practise in my department, which is very helpful in our family practice department.

To get to the specific question about resources for HIV primary care, and I suppose resources in any underserviced area, I think the minister must act. I'm going to get specifically to what I think you're talking about, which is, how do you put physicians in places where there are not enough physicians and how do you take out

physicians where there are too many?

I have no problem with the government compelling doctors about where to practise, but under the following circumstances: I think it is unfair to do it after students enter medical school, and I'm giving you an answer that I gave 25 years ago. I do think it is fair, as part of the terms and conditions of entering medical school, so any applicant in the province knows ahead of time: "Part of the terms and conditions of the state funding your education, Mr or Ms Medical Student, is that you will have to repay the province three years of service in a designated underserviced area. We'll consider the expertise and training you've had so it's an appropriate placement, but that's how you have repay the citizens of Ontario." When you apply to medical school, you know ahead of time, and then it's fair. But it's not fair to change the rules so dramatically midstream. That's the only objection I have.

You can do it with HIV primary care; Seaton House, where I had a lot of trouble finding a doctor for the homeless in Toronto; Ignace, Ontario—and I have to tell you I know about the problems in northern Ontario because I have a brother who's a physician who calls himself the king of northern Ontario locums. He's always done his locums, for 10 years, all over the province, and I've heard personally from him how desperate it is in these communities. But it's not going to work by forcing

people under changing rules.

The Chair: Thank you, Mrs Ecker, and thank you. We appreciate your interest in our process and your presentation this afternoon. Have a good day, sir.

1430

ADA LO DOROTHY SIT

The Chair: Our next presenters are Dr Ada Lo and Dr Dorothy Sit. Welcome to our committee. We appreci-

ate your attendance. You have a half an hour of our time to use as you see fit. Questions, should you allow time for them, would begin with the New Democrats.

Dr Ada Lo: I'm Dr Ada Lo, and this is Dr Dorothy Sit. Thank you for letting us speak. I graduated from the U of T medical school in 1993 and finished my family

medicine residency this year.

I have never been interested in politics before and I consider myself a physician at the grass-roots level. All I want is to be left to my own peace so I can practice true compassionate medicine. I derive great satisfaction from caring for my patients, although it is emotionally draining to see the depths of pain in the human heart every day. I see first hand the problems the health care system is facing. Granted that my experience is on an individual basis, it may represent a microcosm of the greater problem.

I have come to the public hearings in the last few days and heard a lot of frustration being vented out. But that's not why we are here today. We are here today in the hope of offering some constructive solutions in the best interests of our patients. We will try our best not to

complain or lay blame on anyone.

First, the public really does need more time to absorb the entire bill. Mr Frank Klees told us yesterday that it took the government three years to come out with this bill. There will be a lot of changes in people's lives and people are naturally resistant to changes. They arouse feelings of fear and insecurity. If you truly want to hear the public and work with the public for solutions to the huge deficits, you need to give us time to feel the frustration first, time to understand this bill as much as possible, then we also need time to think of constructive solutions.

With regard to the psychiatrist shortage issue, in my experience, even in the greater Toronto area there is a shortage. For example, a patient with an eating disorder was rejected from the Toronto General Hospital eating disorder clinic because of too long a waiting list. A patient with a history of childhood sexual abuse who finally found the courage to tell me had to wait a year to see a GP psychotherapist, and we are talking about a family doctor who has some experience in psychotherapy, not a psychiatrist.

The taxpayers in Ontario subsidized our education and it is reasonable for them to expect us to serve them. By forcing doctors up north, the public will see immediate results and it will seem to solve the shortage problem. But this is not the long-term solution. We will all be

deluding ourselves if we think so.

Virtually every study which has looked at this question has concluded the same thing: encouraging doctors to go north is preferred to forcing them north. The most recent examples can be found in the PCCCAR underserviced area needs committee report released in June 1995, and the joint government OMA-OHA report by Graham Scott. We all have to realize that it is not the quantity that counts, it's the quality. Northern people want doctors who have the necessary experience for northern practice, who are committed to stay and who have it in their heart to serve others.

There are several solutions, all voluntary, which will work but have not been implemented yet. I have several suggestions.

First, we need a reasonable recruitment and retention program. In this program, there must be supportive measures to prevent physician burnout, including replacement locum doctors, educational and vacation leave, reasonable on-call schedules, specialty backup services, satisfactory payment methods for small hospital and emergency room services, financial incentives which reward doctors who stay in underserviced areas, and support for spouses and family members.

During the social contract talks in 1993, the government and the OMA agreed to a direct contract program which has most of the abovementioned features, but the government never implemented it. The OMA also agreed to include the cost of a recruitment and retention program in the hard cap so there will be no extra cost to the

taxpayers.

Second, we also need more training programs for doctors in underserviced areas. Experience shows that doctors trained in underserviced areas tend to return to those areas when they finish training. Doctors in training want to be exposed to the realities of northern practice.

When I applied for my family medicine residency two years ago, I had considered going up north and sent applications to those programs, but because of limited funded positions, I was not even granted an interview. I ended up doing my residency in Women's College Hospital, which gave me a wonderful learning experience. I was trained so that I will be able to deliver babies, do in-hospital medicine, in addition to office practice. When I go to underserviced areas in the future, I will not be as ill-equipped, but this is my choice, and the fact remains that a lot of doctors in training plan to stay in a big city and have not geared their training program to the requirements of a northern practice.

I am not happy with the status quo, but I believe that by passing this bill into law, the situation won't get better, but will only get worse. A lot of people are going to suffer. Even though the government has very good intentions, the end does not justify the means in this case. I am sure that when you go into politics, you have it in your hearts to serve people. It's important, especially during these times, to keep your nose on the horizon and see the vision that you had when you first went into politics. Hopefully, you will try your best to kindle a greater understanding between the public and the government.

Dr Dorothy Sit: Thanks for giving me the opportunity to speak before you. My name is Dr Dorothy Sit. I'm a family doctor who graduated from the University of Toronto, class of 1992. Following my residency program in family practice at Mount Sinai Hospital, I decided to venture up north of the 401 and practised as a locum physician and as an emergency doctor for the area of Muskoka, mainly in Gravenhurst and Bracebridge.

After one year at this location, I decided I would like more diversity and I joined the Ontario Medical Association underserviced locum program. I was fortunate to be able to join this program because currently I am single, unattached, without major family commitments, and also because I enjoy travelling.

I do believe that I should make a contribution to society, because the Ontario government invested in my medical training through all those years of med school and post-grad. Perhaps that is the reason I decided to go off and practise in isolated settings. You must also understand that in making this decision, I sacrificed some of my social life, since my home base has always been Toronto, having been born and raised here. I do not expect any of my colleagues and friends to make the same choices as I have, because they are all individuals.

I can understand that the Conservative government has tried to put forward Bill 26 in order to attempt to fix the deficit problem. There are many reasons why we have this huge debt. Four possibilities are: mismanagement in the Ministry of Health; mismanagement in the hospitals; irresponsible billings by doctors; and patient abuse of the system.

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However, I do not believe it is fair to label doctors of Ontario as a scapegoat for the fiscal irresponsibilities of the past. By reading the Star and listening to the Health minister speak, I sense an accusatory tone from them, especially when they say that all doctors are responsible for fraudulent billings. This is an impossible generalization. It is like saying all doctors are endeavouring in criminal activity.

The government then decides that on this premise they can push through a bill that empowers them to obliterate all privacy rights. As a result, they will step into all doctors' offices to check for duplicate billings and apparent inappropriate use of investigations and treatment from a financial point of view, not a medical perspective. The inference here is that accountants and non-medical personnel will be judging what is appropriate health care, not the doctors. I would also like to let the MPPs know that in fact OHIP has already implemented a computer program that checks all physicians' payment submissions for this duplication problem.

In addition, I would like to address the amount of \$65 million that OHIP has accused physicians of cheating the system. In fact, an article from the Toronto Star of March 26, 1995, stated that the Provincial Auditor in 1995 found that amount to be in the neighbourhood of possibly \$1.3 million. Personally, I find any amount of fraudulent billing to be deplorable, but I do wish the Health minister could get the facts straight before making such widesweeping, dictatorial legislation and such wide-sweeping comments pertaining to the medical profession.

As a result of this threatening environment, doctors have left the province. New doctors are not willing to set up their own offices because of the unstable atmosphere, with each government breaking its contract with the doctors. Effectively, this is the brain drain.

Yesterday I had the opportunity to speak with the Conservative MPP from York region, who mentioned that after several days of public hearings, he noticed some repetition of similar anxieties expressed by members of the health profession and by the public at large. He wanted to hear more ideas for cutting costs in the health care system and attracting physicians to the underserviced areas of Ontario. I believe my medical friends and I can offer a few suggestions, and I do hope you will pay

attention, particularly since I have practised in both urban and rural areas. People I have met have often made insightful comments that I would like to share with you now.

In my opinion, the health care system is being abused in several ways. For example, I believe that walk-in clinics are a good idea in theory, but they are also extremely open to abuse of the health system. They allow for double and triple doctoring without their own family doctors realizing it, as many walk-in patients are encouraged to follow up with their own GPs the next day due to medical-legal purposes. Often the patient takes it upon himself or herself to look for second and third opinions after a walk-in visit. We can correct this problem by expecting the family doctors to be responsible for their own patients during after hours.

One can take the example of some physicians in the Credit Valley area of Mississauga and another group in the Brampton-Peel Memorial area who set up their own after-hours clinic in their medical building, available for a few hours in the evening and for longer hours on the weekends. At least there the patients will be cared for, and this will prevent inappropriate emergency room visits. Also, the family docs will be informed of the patients' visits and can provide some continuity of care.

I believe another source of abuse in the health care system is the house call service. This is a phenomenon of the urban centres. I have never in my experience in the north and south seen such a pampering of the urbanites, and exclusive to the urbanites, especially in a city where the public transit is a doorstep away or where there are taxi services. I must tell you that in many of the isolated communities where I worked, there is not even a taxi to transport people without cars. Can you imagine? But I have come to find that people there are more resourceful. In cities, it must be the 24-hour convenience store mentality which encourages irresponsible use of the health system. I do think house calls should be made available to people who are disabled or housebound due to their unfortunate circumstances. But the trend is, for example, the call comes in that there is a sniffle at High Park and Bloor. The doctor arrives and the whole family of seven has been attacked by the sniffles. Therefore, the doctor sees seven instead of one sniffle. Did this sniffle merit a house call for one person, let alone seven? I believe the public must be educated to appreciate their precious health care system and to utilize it appropriately.

On yet another point, Bill 26 tries to address the problem of servicing the underserviced areas that severely lack doctors. To start with, I will remind you of the numbers published by the Ministry of Health in their October-November Bulletin pertaining to the physician shortage in the underserviced areas of Ontario. They are as follows: In the north, 47 communities are looking for 64 GPs; in the south, 16 communities are looking for 24 GPs.

For example, I worked in two towns situated along the Trans-Canada Highway in northern Ontario. The population is approximately 7,000 between the two places, where they shared one hospital with 25 beds and had only two doctors. In another town with 15 doctors, the turnover rate of MDs was extremely high. In that north-

ern community, five doctors have left for the US in the past year; in other words, one third of the total number of physicians in that area. These types of communities are challenging places to live and work. The government needs to attract people not only to come, but also to stay.

It is in these circumstances that I sincerely believe the Ontario Medical Association's rural locum program is essential. I must say I am proud and honoured to be a part of this program. The program is essential to prevent doctor burnout in these areas and to halt an already growing attrition rate. I believe young doctors should be encouraged by the government to consider working in rural settings by following through with, for example, direct contracts at graduation, such as the one mentioned by PAIRO in 1993. This, plus financial incentives and short-term contracts for periods of one to two years on a voluntary basis, would be a more positive initiative. I believe it would be more effective than forcing doctors against their will to comply with government legislation.

From the grapevine I have heard that the government plans to lower current billing caps and also plans to cut the fee schedule by 20%. They have not considered the differences between urban and rural practices. They haven't considered the rising cost of overhead in offices, CMPA, the absence of sick-leave benefits and pension plans.

Perhaps I can better speak from the point of view of a rural doctor.

Firstly, with the current cap, most hardworking rural docs and those who do all-round family practice in cities would have a difficult time reaching it, "hard work" meaning working in an office, seeing hospital inpatients, doing emergency, obstetrics, anaesthesia, minor surgical cases and psychotherapy. The reason the workload is so great is that the people in the area require these services and usually are quite distant from any major referral centre. With another cap and a possible further reduction in the fee schedule, I believe the rural doctors will feel insulted for the amount of service they provide.

From a more concrete perspective, all GPs who see inpatients in the hospital are paid \$16 per visit before social contract deductions. With a reduction of 20%, the visit is \$12.80. This could be a patient who is very ill—crashing, so to speak—needing a great deal of attention and a lot of time from the doctor, who works in a setting with minimal backup. I think this would discourage doctors from coming to stay in isolated areas and taking on privileges at the hospital and again risking burnout.

In cities, this would lead to the family doctor consulting with the specialists more often. Perhaps in these situations, rather than a fee-for-service environment, the government could offer a rewarding alternative payment plan where doctors are guaranteed vacation time, continuing medical education time, the next day off after being on call for 24 hours etc. This was actually undertaken in the Red Lake area, where I also had the privilege to work for a period of time. Lastly, I wish to mention briefly that each new government seems to have nullified the previous agreements made with the OMA. I would like to ask you what had been wrong with these past agreements. The government not only must try to tackle the health care debt from the supplier's side—in other words,

physicians and hospitals—but also from the demander's side, the general public. It is imperative that the public realize that the system has tremendous cost. The users of the system should be expected to be equally responsible for health care spending along with the health care

providers.

To conclude, I have made many points in these last few minutes. We have come up with these suggestions only because I've had the opportunity to work in various areas of this province and also had the opportunity to talk with many doctors, nurses and other health care providers. I hope you will consider our suggestions and insights, as we have spent time to reflect on the way the current system works, both the positives and the negatives.

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I honestly believe that the MDs from both the urban and rural settings have indicated that they wish to participate in improving the current system. I think the government still needs to include doctors more in future health care reforms. This would bring the MDs alongside with your concerns rather than antagonizing us, making us increasingly frustrated with the current working environment. Please open your ears and allow us to participate in any legislation concerning health care matters, because we as doctors and as citizens of Ontario understand that there are still problems, but we do wish to see change for the better and can offer input into your solutions.

The Chair: Thank you very much, ladies, for your presentation. We have about three minutes per party left

for questions, beginning with Ms Lankin.

Ms Lankin: I appreciate both of your presentations. I have noticed you here on and off through the course of the hearings this week, and so I know you have been listening to other presentations and to the questions and the comments from the members of provincial Parliament as well.

There was a young woman here earlier in the week as well, Michelle Wise, and you may know that over the course of the week I've been reading in some statements from various doctors. She's a second-year medical student at the University of Toronto, and she says:

"The main part of the bill that really concerns us is the government having the power to direct where we're going to practise and where we're going to live. It affects me directly. I am a future doctor and I've grown up in Toronto, all my friends are here, my family is here and I plan to work here when I graduate. There's also people in my class who have significant others who wouldn't necessarily be able to work outside of the larger centres that we may be restricted from working in. On the other hand, there's definitely people in my class who do want to go up north. They might be from some smaller communities and want to return there or they might, for whatever reason want, to work in an underserviced area. We just don't think that forcing doctors to work there by restricting billing numbers is the way to do it."

You've spoken most eloquently about some of the recommended solutions to this problem. I want to point out to the government members who have asked many presenters, "Well, what would you do? What are the solutions? Other governments have tried to solve it; no

one's been able to solve it," I want to remind them that in fact the previous government put in place two processes: PCCCAR, which you've referred to, which just in July came out with a set of recommendations, and the working committees are putting the final touches on that; and the Scott report, which came out just prior to the election. This government has indicated support for those processes, but it hasn't fully implemented the recommendations yet, and yet it's proceeding with legislation on the billing numbers restrictions.

Can you tell me how those of your colleagues that you know will be affected by this they feel about the government's actions, and what does it mean about their own

practice choices for the future?

Dr Lo: For example, my brother is in second-year family medicine residency, and he really wants to practise in Toronto, but now the future is so uncertain. He has a girlfriend in Toronto too, and she has a nice job in Toronto. So I really don't know what will happen to his personal and professional life if this bill passes. He is actually this week calling on lots of medical recruitment services to talk to people in the States, and he is considering going down to the States.

Ms Lankin: Do you think that feeling is widespread

among students right now?

Dr Lo: Yes, because he told me most of his friends are calling around and panicking.

The Chair: Thanks, Ms Lankin. To the government,

Mrs Johns.

Mrs Johns: I also want to add something from a letter from Minister Jim Wilson that deals with something that you particularly have talked about. He's writing a letter to the editor and he says:

"I have not, nor will I ever, accuse all of Ontario's physicians of defrauding our health care system. We see physicians as essential gatekeepers and catalysts in the reforms we must undertake to maintain quality and keep our health care system sustainable for future generations of Ontarians.

"At no point during my remarks to the committee examining the government's Savings and Restructuring Act did I attack physicians and accuse them of widespread fraudulent behaviour. What I actually said to the committee was:

"'I'm not here to say in any way that provider fraud is a large problem, but we do need tools where we think it's occurring to check out to see whether it is occurring and to refer inappropriate billings and practices to other proper authorities.'

"In other words, the majority of physicians bill appropriately. The problem is confined to a small group that is substantially overbilling the system. Currently, we lack the ability to recover these funds in a timely manner.

"For example, \$2.7 million is still owed to the public health insurance plan by physicians who were found—by their peers—to have overbilled the plan. As well, there still remains a backlog of 170 cases of alleged inappropriate billings, which could total \$9.5 million, that have yet to be reviewed by the Medical Review Committee.

"I believe it is the irresponsible actions and hyperbole of the opposition parties that have exaggerated the powers contained in the Savings and Restructuring Act and the extent to which these powers in practice will intrude on the provision of medical service. By misrepresenting Bill 26, the opposition, and not the government, has blown the issues of provider fraud out of proportion.

"I look forward to continuing to work constructively with physicians, whose input I value, to make Ontario's

health care system the best that it can be."

I know that you've expressed that you want to make Ontario's health care system the best that you can make it and that you want to help us, and I want you to know that we want that also.

Dr Sit: Thanks for your comment. I appreciate the Health minister's comment about doctors, and I do realize that there is a group, perhaps a small group, that is abusing the OHIP system among the group of doctors. I know that OHIP also has a way of retrieving that money from the doctors, because they do that to us every month with our OHIP by remittance. They've taken portions of all our billings off monthly, so I know that there is a way of retrieving the money that has been fraudulently billed. I don't know what is the problem with the Health minister, but I know that there is a system in place already.

The other thing that the Health minister did not address is the public's overuse or abuse of our current health care system, and I think there's a check and balance that we need to install. It's not up to me to offer you solutions, because I know that the solutions currently aren't quite acceptable in the face of the public. But the doctors can't function only as a gatekeeper; we also have to have the

public behaving responsibly.

Mr Curling: Thank you very much, doctors. I think your presentation was quite balanced and direct, and you made it quite open that you were not interested in politics but somehow politics are very interested in people, and

they should be.

I think that the letter of the minister, who is trying to explain his remarks, is indicative of what's going on continuously, that the statements and the position of legislation are so insensitive and sometimes not taking

into consideration people's feelings.

I just want to ask your views on this. I know the locum and the continuing medical education program that you mention here are involved in the agreement and the negotiation with the OMA in 1991 and 1993. Do you realize that this legislation itself wipes out this agreement? What this means is that the program you have spoken about now, that you support the program very strongly and are very happy to associate with it, will disappear under this legislation. Does that make common sense to you?

Dr Sit: Most certainly it doesn't, and that's why I came here today, to voice my opinion and my concern that they do continue with the OMA rural locum place-

ment program.

Mr Curling: I know the government said that we have blown many things out of proportion. I just hope that what was blown out of proportion is the fact of participation. As a matter of fact, the excitement, as you may want to call it, that was developed or demonstrated at times involves an excellent presentation on your part, and I hope it is the opposition who will try to educate the people outside and say, "This affects you directly."

You spoke so eloquently about that. Do you feel-

The Chair: You can't have another question, Mr Curling. You've used up your time.

Mr Curling: Limited time.

The Chair: The time goes by quickly.

Thank you, ladies. We appreciate your interest in our

process and your being here this afternoon.

Our next presenter is Dan Vrekaliza. Okay. We're going to take a five-minute recess because Mr Bob Callahan—or Dr Bob Callahan, who's scheduled for 4, is in the building. We're going to go and find him and slot him in now.

Mr Clement: Don't call him a doctor; he's a lawyer. **The Chair:** I'm sorry. He's not a doctor, he's a wyer.

Mrs Caplan: That's worse.

The Chair: Lawyer Bob Callahan. That is worse.

The committee recessed from 1500 to 1505.

BOB CALLAHAN

The Chair: Welcome, Mr Callahan, to some familiar territory, I understand, for you. We're pleased to have you here at our committee. You have a half-hour to use as you see fit. We appreciate your being early. Should you leave any time for questions, they would begin with the government. The floor is yours, sir.

Mr Bob Callahan: Thank you very much, Mr Carroll. I was watching you on television last night. I understand that I've been elevated to the august position of a doctor as opposed to a lawyer. I have to tell you I'm a lawyer, have been one for 30 years. As you probably know, I spent 10 years down here in the Legislature and I involuntarily left the Legislature after the election in 1995.

It's a little different situation for me to be on this end of the picture, having been for 10 years on the other end of the picture and having chaired a number of committees in the Legislature. But quite apart from that, my purpose in being here today is not to go into the bill. I think, from my observing of the televising of this, there have been some very excellent briefs. People have brought to the attention of the Legislature significant factors in terms of this bill.

It gives me a bit of a shuddering feeling to realize that this bill would have been passed before Christmas had it not been for certain members of the Legislature. I have to recognize my good friend Alvin Curling and all those who supported him. It's unfortunate that in our system, when there's a majority government of whatever political stripe, such procedures have to be taken to ensure that democracy prevails.

For the 10 years I was here I, with a number of other members of not just the Liberal caucus but other caucuses, worked hard and certainly spoke on a number of occasions in the Legislature in terms of democratizing this place. The procedures by way of which the Legislature operates require a number of reforms. Thus far, those reforms have not been forthcoming, although I have to say that my then leader and my still leader, Lyn McLeod, brought out a very excellent document after she was elected as leader of our party which went a long way towards regularizing and democratizing this august body.

Having said that—that's the last partisan hit I will make; I'm here in a non-partisan way—I'm here to share with you what I believe is necessary, particularly in a case of a bill which is 211 pages long. I'm not sure that the public is aware of the fact that when a bill is presented to the House, there is a small, little story or

explanation of what the bill contains.

Unfortunately, the way the legislation is put forward, particularly when it's amending legislation, it goes something like this: "Section 4 amends section 5 of the ophthalmology act," for instance. If you haven't got on the one side of the page that and on the other side of the page the section it's amending, then I would suggest, with all due respect to the members of the Legislature, that probably 129 members of that Legislature have no idea what that amending bill means, unless they're prepared to go behind the Speaker's chair and pull out the Revised Statutes of Ontario and determine what it means.

What they do is they rely on briefings that are provided by the various caucuses or they rely on briefings from the ministry. I'm suggesting that that's not adequate. That's not fair ball for the taxpayers of this province, because it means very often the people in that House are voting without any understanding of what's in the bill, and particularly when it's a 211-page bill, it becomes

almost an impossibility.

I have suggested at least 20 times, over the period of 10 years I was here, to two Speakers, and most recently to Speaker Warner about a week before the House adjourned and the election was called, that this is very easy to do technologically. With word processors and computers, it's very simple to put on the one side of the page the amendment and on the other side of the page the section that is being amended. In fact you could even underline the lines that are being amended so that a person can simply look from one side to the other. I noticed this afternoon Dr Berger sort of alluded to that, but I don't think he quite understood just how bad the problem is.

I find it incredible that Speaker Warner said he agreed with me. He thought it was a good idea. I've spoken with the Clerk of the Legislature. He thought it was a good idea. Ten years have gone by and it has not be done. I suggest to you that that is unacceptable because it means that where everybody stands up and votes, do they know

what they're voting on?

I'd put that question to the present members of the Legislature and I'll bet you the answers would be no. You people in committee get a much better understanding of what the bill is about, but I think it's fair to the taxpayers of this province, I think it's fair to the voters who elected you and gave you a sacred trust, that you know what you're voting on, that you don't just stand up because the party whip says, "We're all voting for this." That to me is unacceptable.

In fact Mr Harris in the Common Sense Revolution suggested that we reduce the numbers of the Legislature to 90. Unless this is changed, I'd suggest you reduce the Legislature to about four people, because they're the only people who know what's going on. In this case, as we've seen from the press reports, and I hope you'll accept the

fact that I'm not being partisan—I would say this about any party—we have the Minister of Municipal Affairs admitting that he didn't know the bill contained X. I think we even had the Premier, with respect, admitting that he wasn't sure what was in the bill.

That's frightening. That is absolutely frightening because that means that the bills that are put before the House are the product of a fine civil service we have in this province, but they're a product of the civil service. The civil service is not accountable to the people of Ontario. You are, each one of you who is elected to the

Legislature.

If you're relying on the civil service, I'm sure that you will probably get the honest goods every time or most times, but just think about it. If somebody decided they wanted to slip something in and everybody just sort of let it go by and nobody bothered to investigate it—and I suggest to you, with the greatest of respect, this omnibus bill, as it turns out, is something that would have slipped by; it would have been passed before Christmas.

Some of the horror stories that we're hearing from people who have come before this committee in terms of dealing with this bill and some of the revelations that have been produced tell me as a now taxpayer, non-politician that this is frightening. This bill could have been passed before Christmas and we would have found this all out afterwards. What do you do afterwards? It's very difficult to change it afterwards.

I suggest a very simple thing and it would be in existence for whatever party is in power and it would give true democracy to the Legislature in that the people in the Legislature would understand what they're voting on. I remember when I was there, we used to suggest that people were joined at the hip. That's not acceptable.

I'm surprised the press around here have known for ages that this is how business is done and have never raised it once, the fact that we can provide our statutes in both French and English, which is marvellous because they are the two official languages of Canada, but we haven't got to the technology to do what I've just suggested. That's my number one observation, and I pass

it on to you and I hope that it will be rectified. The second one is the question of regulations. When I came down here 10 years ago and I heard this august statement of it being by order in council, I thought, "My heavens, the Lieutenant Governor comes down and he gives his blessing to legislation." I think the public should be aware, if they're not by now, that what a regulation is is simply the cabinet, of whatever political stripe, receiving from a committee a proposal for public policy for this province and enacting it by way of regulation. It never gets to the floor of the Legislature. It never gets debated or scrutinized by the people who have been elected and given a sacred trust by the people in this province. I exhort you to take a look at a very excellent report of the standing committee on regulations and private bills, much of which can be attributed to David Fleet, who was then a member, which does an excellent report on just how the regulatory system should be changed. I urge you to read it, I urge you to get it to your caucuses, because I think it's commendable.

As you know, regulations are considered to be the silent laws for the reasons I've stated. They never get debated on the floor of the Legislature. They come before the regulations and private bills committee, and I know that. I chaired it for years. But because of the standing order, the only thing you can examine that regulation for is (1) does it offend the Charter of Rights and Freedoms, and (2) does it in fact enact policy?

We're seeing more and more statutes, particularly this omnibus bill, that contain a basket clause and regulatory powers that are no longer just regulating fees, which was the intent of regulations, or content of forms; they're regulating very serious powers to the ministries, to the ministers, in terms of how they provide services to the

people of this province.

I suggest that what you're doing if you don't look at that, if you don't change that process, is you are abdicating your responsibility as elected representatives of this province to ensure that what happens to the people of this province through the laws that are passed in fact passes the scrutiny of you as elected representatives who are responsible to the people of this province. So I suggest you take a good, hard look at that report. It goes a long way.

The third thing is—and I go back perhaps to where I started—the whole issue of how the procedures in this Legislature operate. As you well know, at first reading there is no debate. At second reading there is extensive debate and, if you have a majority government of whatever political stripe, the bill is passed in principle, which means that you're not going to change the principle of the bill. You may tinker with it, you may toy with it, but you're not going to change the principle of the bill, because when it gets to you people in committee, the principle has been established.

Then you go out and you travel this province and spend extraordinary amounts of money to travel this province to hear from the public. My experience down here, in 10 years in the Legislature—and this is something that doesn't just arise, this has been something that is historic—when it comes back to the committee, the opposition members who have listened to the public

usually introduce amendments.

Sometimes they introduce them because they're playing politics, yes. But more often than not they're introducing amendments to that legislation, as is their duty as the official opposition and the third party, to ensure that legislation is the best legislation for the people of this province. They introduce them, and because our structure is such that the government of the day, of whatever political stripe, has more members than the opposition, those amendments almost 99% of the time are defeated.

In essence what you've got is, you've gone out and spent probably \$500,000, maybe half a million dollars, maybe a million if you've travelled extensively, to hear from the public. The public think they're being heard from, and then there's not an amendment to the bill brought in when it comes back. How long do you think you can fool the people? How long do you think you can actually get away with that in terms of telling the public that you're hearing from them and not change one i, t or anything in the bill?

As I said, my leader is the first leader that I'm aware of in this province who extensively did a report, a study, on how we could reform this place. The federal government is light-years ahead of you people. They now refer a bill after first reading to the committee. They haven't taken that next step which I'm going to suggest to you, and I hope you will pass it on to Mike Harris, who's a decent guy.

I hope you would pass on to him the fact that when it gets to the committee it should get here after first reading, before the principle of the bill is established. There should be no majority in this committee. There should be no majority that can overrule amendments of the opposition. You should travel this province, yes, spend the money to hear from the public, because that's democracy, and when it comes back to this committee, you should in fact be able—all of you, anybody, government members or opposition members—to submit amendments based on what they heard from the public and what they consider to be relevant in terms of what the public was trying to say about the bill.

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If you do that, it doesn't mean that those amendments are going to get passed. What it means is you then refer it back to the Legislature, and the minister of the day, he or she, has to justify why those amendments are not appropriate. It then becomes second reading, full debate in the House. The minister who is finally responsible for the legislation, truly responsible under our system, he or she then has to defend why the amendments, which are received from the opposition, from the third party or even from government members, should or should not be accepted.

Let me tell you something: If you push for that, particularly as members of the government, particularly in a government that has such a large majority, you will find that you will become empowered. If you don't, what you'll do is you'll spend five years, 10 years, whatever, here as a backbencher and the best you'll get to do is catcall across the floor of the Legislature. You will never have any input into public policy. You will have to take the tin can tied to your tail when your constituents ask you why a particular piece of legislation affected them so much, but you will not have had your say unless you are in cabinet, and even in cabinet you may not have that final say.

So I suggest to you that the time is ripe for this. People are tired. Their dollars are being spent; they want to be sure the dollars are spent wisely. I suggest to you that if you adopt some of these changes and push for some of these changes, it will make the Legislature a

very much more democratized place.

I think I've basically put forward the points I felt responsible to put forward. As I say, I came down here with stars in my eyes, I was going to set the world on fire, and it doesn't happen, but it doesn't have to be that way. In fact, what you can do is you can take the power out of the central control of the Premier of the day, maybe four cabinet ministers and maybe nine or 10 spin doctors down on the second floor who in fact are making policy, not based in the main on what's good for this province, but they're making it on the basis of what the

polls tell them will get them re-elected. If I'm correct in that regard, then in fact what you've done is a great disservice to the people who elected you and gave you a

sacred trust to come to this place.

Finally, I have three wishes for 1996: There is an excellent report that was done by the public accounts committee—and you can find it, and I've told Tony about it and I've told Joe Spina, the two members who replaced us in our ridings—on learning-disabled kids. Get that report. There is an excellent presentation by a fellow by the name of Dr Hurst from northern Ontario. It is a major breakthrough, I think, in terms of dealing, not just with learning-disabled children in the schools, but more importantly, in the correctional system.

That report told us that 80% of the kids in young offender lockup are learning-disabled. That tells me that Bill 82 has got a chasm a mile wide and these kids are falling through it. It costs you \$100,000 a kid to keep them in young offender lockup. Think about it. You could give that kid individual tutoring for \$10,000 and keep him or her from coming back into the system. You could save \$90,000, and if the government is pursuing—and I'm sure everybody agrees they should pursue the question of deficit-cutting—there is a great opportunity

The second thing I would ask you to do is to revisit the Mental Health Act. The Mental Health Act was skewered in 1985, I think, well-meaning—one member I can think of whom I will not name, had thought that certain things should not be contained in that bill, ie that you should not be forced to take certain types of medical treatment. We have in fact abandoned the schizophrenics of this province. The people you see floating around the streets of Toronto and sleeping on grates, many of them—not all of them, but many of them are schizophrenics.

I would hope to God that your government doesn't retreat and take risperidone, which is a drug that's on the formulary, off the formulary. These people are street people. If they have that drug, perhaps they can carry on at least a decent existence.

Those are my two wishes and I am quite prepared to answer any questions, but before I do that, I wish you all a Merry Christmas and a happy holiday. I'm sure you're looking forward to it. This is a yeoman's task, believe me, and particularly on a Friday three days before Christmas. If you haven't got your Christmas shopping done, you're in trouble. Thank you.

The Chair: We've got a couple of minutes left per party for questions, beginning with the government.

Mr Clement: I'd like to publicly thank Mr Callahan for continuing to be involved in the process of government. I've always respected him and he always gives me what for whenever I'm not doing a good job as his servant. There was a couple of things that he mentioned which are germane to our discussions, and all of it is germane but particularly germane to what we're doing. First of all, I wanted to assure you that with respect to Dr Hurst, I have received that report and have forwarded it on to the Solicitor General, but when you were speaking, it absolutely makes more sense to also bring it to Community and Social Services and the Ministry of Educa-

tion, because it's something that's preventive rather than punitive, I suppose is the way to put it. So fortunately, Ms Ecker to my right is very involved as the parliamentary assistant to the Minister of Community and Social Services, is very involved in child care and thinking of new ways of how to deliver services better.

The second thing I wanted to say was that the Premier does believe very strongly in not only the Legislature but also the caucus. You know what it's like to be in a government caucus. The frustrations that my colleagues opposite sometimes evidence publicly, it has been known to happen that government backbenchers evidence them privately. So the frustrations do exist for backbenchers and what we are trying to do, and this is only part of the solution, is to have very active caucus committees that actually help the ministers write the legislation before it goes to cabinet, before it goes to P&P, before it is written in stone I guess is the way to put it.

From your perspective then—

The Chair: Unfortunately, Mr Clement, your statement has used up all your time.

Mr Clement: I do apologize.

Mr Curling: Thank you for coming in, Bob. You're always direct in your approach to things. As you have stated, you are a lawyer, you were a politician and now you're a citizen, so you've seen it from all sides of it all. And you know how complex legislation is, bills are to be read.

What would be your suggestion if the government decides to maybe publish this in a newspaper, the entire Bill 26 in, as we would call it, plain language? Do you think that would be helpful?

Mr Callahan: I'm trying to figure out who you'd find

to do it.

Mr Curling: The government.

Mr Callahan: No, no, who could put it in plain language. I think 211 pages, you'd probably up the deficit by—I understand that people—and this is not a criticism, I can see 211 pages—have found difficulty in getting copies of the bill, which is rather astounding.

Mr Curling: That's the point I'm making too.

Mr Callahan: But today, with the technologies we have, we've got to get out of the 19th century. We've got the opportunity here to put it on Internet, if somebody wanted to reel it in on Internet.

Ms Lankin: In plain language.

Mr Callahan: In plain language, yes. I think it's simple enough. In fact, if you had it in plain language in addition to what I'm saying about the amendment, then the section that's being amended and then maybe a little thing on the side explaining what this does. That type of stuff is great. I think the more publication, the more public knowledge that people have, the better. If putting it in the newspaper would help people, and I think you're getting that press now—unfortunately, I don't think you would've gotten that press if this bill had been pushed through before Christmas. The press would've just said, "Well, it's not an important story," and that would've been it.

I chide the press for that. I can do that now, you see. I'm no longer a politician. I don't have to kowtow to these people any more, but I would chide the press,

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because the press, who in essence have the ultimate responsibility to ensure that this place is made known to the public, they didn't do it.

Ms Lankin: I have two questions. The first one: I really do appreciate, Bob, your coming here and your overview of the process, and I think it's been very helpful for people who are watching as well. The only concern I have is the way in which you characterized what actually goes on in committee and the clause-by-clause dealing with amendments, because it has been my experience—if the government doesn't want to listen on a piece of legislation, your characterization is correct. But it's been my experience that there are pieces of legislation that have been dramatically improved by the process of public hearings and the input and with the government listening and the opposition working with amendments that have changed the legislation.

I remember a time as Minister of Health, when we were doing regulated health professions, a series of concerns from the public and stakeholders appearing and amendments that I decided to put forward from the government's perspective, opposition parties put forward. I remember having our legal director and the policy team doing that legislation go and meet with the opposition critics—it was Ms Sullivan, but you were also involved too, Ms Caplan, and Jim Wilson, the now minister—to sit down, negotiate wording to help improve the opposition members' amendments' wording so that it would be acceptable to the government. We passed a number of amendments to that legislation. We worked collectively.

I have had no contact from the minister, no sense that the minister is willing to talk to us about amendments and suggesting that we work together on amendments, as wanting to listen, and no indication that they're—well, I mean, here we are, we're at the end of the first week. It hasn't happened and we haven't even had the amendments tabled from the government that they've already said that they're going to introduce. So there's that caution.

Mr Callahan: Could I just respond to that just very briefly? I don't want to hold up the public. Their right is to be here, not me.

The Chair: How briefly is this going to be?

Mr Callahan: Just very briefly, that you're quite right. I remember that bill having had that done, but my suggestion about first reading here or second reading back in the House is to take a recalcitrant government that is not prepared to listen to task and put them before the entire House and make the members have to participate.

Ms Lankin: I want to know what his third wish was.

Mr Callahan: My third wish is that I get home in time for Christmas.

The Chair: I hope his third wish isn't to become a doctor, which I apologize for misstating—

Mr Callahan: It's tough enough being a lawyer these days; I feel sorry for the doctors.

The Chair: Thank you, Mr Callahan.

Ms Lankin: Mr Chair, I have a motion that I would like to place and I have copies for the clerk to distribute,

and I'll read it very quickly. I believe it is substantially different and I hope one that people can support.

Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available;

I move that this committee acknowledges that there are hundreds more applicants to present to the standing committee on general government hearings on Bill 26 than hearing spots available;

And that this committee wishes to pass on this infor-

mation to the government House leader;

And that this committee recommends that the government House leader meet with the two opposition House leaders to discuss this dilemma.

The Chair: The motion has been tabled.

Ms Lankin: I would like a recorded vote. Members should be able to have the motion in front of them, Mr Chair, and perhaps you could read it once more into the record before we vote.

The Chair: Okay, we'll read the motion to make sure

it's in the record. Moved by Ms Lankin:

"Whereas there has been overwhelming public interest in Bill 26 and that requests to appear before the standing committee on general government far exceed the number of spaces available;

"I move that this committee acknowledges that there are hundreds more applicants to present to the standing committee on general government hearings on Bill 26 than hearing spots available;

"And that this committee wishes to pass on this

information to the government House leader;

"And that this committee recommends that the government House leader meet with the two opposition House leaders to discuss this dilemma."

If there is any discussion on the motion, I would prefer we do it when we get to a break in the action rather than hold up the presenters.

Mrs Caplan: No discussion.

Mr Clement: I think we have to discuss it, sure.

Ms Lankin: Okay. Then we can wait till the break.

I'm satisfied with that.

The Chair: Okay, we'll move it to the break.

GEORGE AREGERS

The Chair: Our next presenter is George Aregers. Welcome to our committee. You have a half-hour to use as you see fit. Any questions would begin with the Liberals. The floor is yours, sir.

Mr George Aregers: I'd just like to tell the committee that I had no problem being here. I called last week and I was very fortunate to be told this morning I could be here. The agenda that I'm going to present, I've quickly done it in the past hour. I'm not a professional speaker, and I apologize. I want to tell everybody here that I've got five kids and I'm married and I've been living all my life in this province, and I'll tell you something: This is the best government we've got, Michael Harris and his team. If you just give me the opportunity to read some of the notes that I have just made, firstly, I would like to thank the organizers for this

public forum who allowed me the opportunity to present my concerns.

I know that this government is on the right track. The people who are mostly bitching and groaning are the ones who have been on the government dole too long and want it to continue forever. We hear frequently, "Ramming this bill too fast," "We want to further discuss it," "Want more time." Hogwash. This is a stalling tactic. Self-interest and greed—that's the reason most of the speakers have come before you. All are threatened that their lifestyle will be curbed by this proposed legislation.

While I was listening to the last speaker, I recall going to the last government on particular bills that I was interested in, and I found myself talking to these politicians because I wasn't a special-interest group. I'm a family man. I work hard for my money. I'll give you just four bills that were rammed through that these politicians didn't listen to.

The building code: That was rammed through. Sure there were hearings. Penalties were made if you just put a little spike or a post—fines of \$50,000. A person could lose his home. And then what you had, the NDP put in the victims' tax—15%. Who did that victims' tax go for? Have you people ever found out? Where does it go? Horror stories where you give this 15%. You get a ticket—15%.

Then we had the Municipal Act, Bill 163, another horror story. You could own a piece of land tomorrow. "It's yours, yes, but you can't do a damn thing with it." There was public input. I got up. "Sit down, fella. You're not a special-interest group."

Then there was the equity bill. That's another horror story. I've got five kids, four of them who are in their 20s. They can't find a job. Why not? Two of them aren't female, not one of them is disabled and not one of them is a minority. But they're the second generation here in this country. When I went to this last government, they laughed at me. However, that's what came to my mind when I heard this last speaker.

What you have here as the problem in Ontario is the self-serving politicians, and I don't have to explain that; and various special-interest groups and associations have been the problem. For the first time we have a government that is listening to the working poor. I do not want myself to be continually overtaxed to support a vast number of welfare bums. I'm sorry I'm using this language and I normally don't. This piece of legislation is the right step forward. However, it does not go far enough and quick enough.

Our medical system has degenerated from the best to the Third World class. Our medical association leads us to think that it is the best. The reason that prompted me to be heard today was the continued threat to this committee here that the good doctors will leave Ontario for the States. I am involved with the health field and I know a lot of doctors, and my wife does. I'm not saying I'm an expert, but I know from personal experience that the medical association wings must be clipped now. They have continued to protect their association members with little regard to the public they serve. Would you believe the medical insurance doctors want us to pay through OHIP if they're negligent on things? Why don't they pay

it for themselves? If they're negligent, they get sued. Let them get out of business.

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My proposals on the thing to relocate doctors in needed areas—that's rural areas—to curb overspending are these: This piece of legislation should go further and demand that all foreign doctors be allowed to practise without any roadblocks that the medical association has now. For example, why is it so easy for our doctors to go to the States, and they're welcome, but any American doctor who comes into Canada, you say, "No, you've got to pass an exam and then try to get to be an intern." That's virtually impossible. It's okay for our doctors to go to other countries, but we don't allow other doctors to come in. The Americans are nice to us.

Then we talk about—you know, I hear a lot of this from the NDP and the Liberals—that we don't want medical records opened up. Why not? I've got nothing to hide, but the doctors have something to hide: the vast numbers of overbillings and the vast numbers of prescriptions. All billings by doctors should be made available to the public if I want to know. Just like a bill that has been passed that civil servants making over a certain amount should be public, I think all doctors' billings should be made available to the public. If I want to know what my doctor charges, it should be posted on the wall how much he made last year and the year before.

How long is this province going to pander to special-interest groups? I don't care if some civil servant can look into my OHIP account if the doctors are overbilling. What's the problem? If someone knows my medical history, I'm not going to get fired. We've got laws to protect us. The doctors and their associations have milked the system. Before OHIP was introduced, no person was neglected. The system worked well.

I don't know if I'm older than a few of you people. When OHIP was introduced, I remember I got a bill from OHIP to tell me how much my doctor billed OHIP. Slowly, the association confronted the present government, Davis at the time, and said, "We don't like that. Maybe George's wife might take a look and find out he's got some communicable disease," so all of a sudden that receipt or something like that which went to the patients was totally wiped out.

We don't know, as patients, what the doctors are charging us. Are they abusing the system? We know from a lot of studies that the doctors are abusing it. I think this government that we've got today is going to open up things. I don't like to go to doctors and keep going to them and going to them and be tested on and tested on when it's not necessary.

This government should take a look at Israel. They've got a fantastic medical system, one of the best, and do you know, all their doctors are actually close to minimum wage? The doctors aren't leaving. The best hospitals are in Israel—the best. I think really what we should have is just private contracts to accountants that the way they should be paid is how much fraud and overbilling they find. That would cure our medical system. Because I tell you that if we don't get this thing rolling, there's not going to be enough money for any one of us. We're going to be our own doctors.

Today, there are a lot of senior citizens, and I get to see that every day in the line of work I do. Their medicine cabinets and purses are just full with prescriptions—continually, continually. I had a good friend who just had, last week, a stroke, and it turns out his doctor pumped him with so many pills that he didn't know this person had diabetes. He's half-dead now. What can you do about this doctor? Nothing. I don't want to be like my friend, in hospital at Toronto East General.

The medical association is no different than heads of unions. They are not there to protect the patient but their colleagues and members. Let's open Ontario's medical doctors' books.

The second part of me talking is that I fully agree that the transfer payments to the municipalities be cut, as they are, or further. For many years the municipalities have taken the payments to be free money, without being accountable. It's been easy for welfare recipients, and all kinds of other programs the municipalities do that are funded by the province, to receive payments because the money was not from the municipalities. There always have been very few checks by the province if the payments have been issued to the real needy.

In this bill that's been proposed by this government, I feel that the municipality will be more accountable. It is a fact that the municipalities spend the most money of all governments, the provincial or the federal, but you know, it's always the provincial that gets the abuse, it's always the feds, it's never the municipalities.

I think a lot of the money that's been given to the municipalities, there haven't been checks. I think this bill is the appropriate one, perfect. I for sure will know when money's been spent foolishly that I can go to not my member of Parliament, but my council members or my mayor and say, "You haven't spent it right." I don't want to blame Harris or anybody else.

You know, I keep hearing on TV that there are such things called poll tax, gas tax etc. This is fearmongering. It's perpetuated by municipalities. If they took proper care, as I said, in spending, they wouldn't have to fearmonger all the residents. There's no need for such taxes.

The most spending done by many municipalities is Ontario's money, which requires accountability. This new bill will give the residents of a municipality an indication of how good their municipal government is. For years, the provincial government has taken the whipping on overspending. It's about time that the real spenders, the municipalities, be made accountable.

For ending, I'd like to say, good work, Michael Harris and his team. It's a fantastic team. I've never seen such a good team. Really, sincerely, the people who Michael Harris has chosen, they're the best. Thank you very much.

The Chair: Thank you. Are you prepared to entertain some questions, sir?

Mr Aregers: Yes.

The Chair: We have about two and a half minutes per party left, beginning with the Liberals. Mrs Caplan.

Mrs Caplan: I have no questions. I want to welcome you to the committee and thank you for coming. I've been arguing and hoping that other people can come and express their views, whether they're your views, which I

don't agree with, or views which I do agree with. I believe this is a democratic forum. We have an obligation to hear people who want to come here and express all kinds of views. So I just want to thank you for coming.

Mr Curling: I just want too to say to you that I'm glad that the opportunity was provided to you, because overwhelmingly the other side is saying that they're against this. Now you've put your point of view and those can be weighed.

Ms Lankin: Mr Aregers, thank you for appearing. I'm sure that the government members will be heartened by your unqualified support for the whole team. I'm not sure how you've had a chance to assess that whole team yet—we're all still starting to get to know them—but I'm glad you have that faith in them.

One of the suggestions that you made with respect to the act, that it should go further, I think you were expressing a potential solution to how to deal with underserviced areas with respect to doctors. You said that all foreign doctors should be allowed to practise without any roadblocks. Are you aware that there are currently procedures in place and that foreign doctors who are recruited to come in to serve in underserviced areas, in fact the roadblocks are removed and those people are brought in? The Minister of Health has that opportunity to sponsor people through the federal immigration process. 1550

Mr Aregers: Yes. But Frances, my wife is a doctor, not in this country, and I know that there is some grumbling that there is this, but she is told that she has to pass these exams. I've looked at exams, I'm a professional in certain areas and it was even hard for me to answer these questions. Even I couldn't find them in textbooks, and also I found that it's very hard to become an intern in this country—very hard.

The thing is that the Immigration department is going around all over the world saying, "Hey, we need more doctors." But there are so many doctors out there who are car-washing, and it's true. My wife has got lots of friends. I mean, let's make it easy for these people.

The thing that makes me mad is that these doctors are saying: "Hey, we're going to threaten you people. We're going to go to the States." But why are the States so nice to us and saying, "Your doctors can come in and practise," but we make it so hard for anybody to come in?

Ms Lankin: I think the point that you make in the broad sense, about acknowledging foreign credentials and assisting them to do that, is an important one. In fact, the government has said it's going to put something in place to try and make that easier. I think that's a good point.

I would just very seriously caution you that with respect to physicians, if you're talking about for underserviced areas, fine; if not, you're handing out billing numbers in the Toronto area that this government is saying it doesn't want to do because it's already overserviced and that will cost the system more. So your suggestion actually is running counter to what your government is proposing at this point.

Mr Aregers: But Frances, please let's check and see what they're making. My wife does work with the doctors and I'm telling you what they're doing is criminal, I mean, unbelievable. I don't want my wife getting

into trouble, but the way they're billing—there are a lot of people who are forced to come back and back for tests that are not necessary. There's got to a system of opening it up and checking these doctors. I don't like to see, when I turn on the TV, that they're coming in front of you people, crying. It's not right.

The Chair: Thanks, Ms Lankin. For the government,

Mrs Ecker.

Mrs Ecker: Thank you very much, Mr Aregers, for coming. I think one of the unique things about the hearings on Bill 26, as we go through this, is that we're hearing not only from organizations of various kinds that are used to coming forward to hearings like this, but also from individuals like yourself who have felt, for whatever reason, that you wish to come forward and let us hear your views. So for that I certainly thank you.

You make a very excellent point about overmedication of seniors. Actually, we were just handed, while you were speaking, a study that estimates that the misuse in that area can add up to about \$7 billion to \$9 billion, which is about as expensive as treating coronary heart disease as it costs the system. So we would certainly agree that there's a lot more that we need to do in terms of utilization guidelines, education of both physicians and

patients about medication for seniors.

I wonder if you would also comment, and obviously your wife is working within the system—you've mentioned your views about physicians who are misusing the system. One of the things I've heard very much from physicians is that patients are not necessarily using the system appropriately, that they're "double-doctoring," is the phrase, as you know, going to see a range of physicians for the same services and that kind of thing. Do you think that is also a problem in the system? Is that something that you and your wife have assessed?

Mr Aregers: Yes, it's there, but I think that doctors are at fault. There's one particular doctor who I know only wants to treat people who don't have a severe problem, heart problems, and any time some senior citizen gets severe heart problems he says, "Go to the emergency," and a young doctor will pick him up. It's a

horror story.

I've got another one there that the system doesn't check for. This person's on welfare, he's a taxicab driver, he continually comes where my wife works and he wants prescriptions all the time. He goes from doctor to doctor, he loads his taxi with them and guess what? He sends them out of the country and he gets \$150. There's abuse out there, Janet, serious abuse.

The Chair: Thank you very much, Mrs Ecker, and thank you, sir. We appreciate your coming forward this afternoon and being interested in our process. Have a

good day.

Ms Lankin: Mr Chair, I'll say this is a point of order and you can tell me whether it is or not, because I'm not sure. A point was just make by Ms Ecker that one of the unique things about these hearings is that not only groups were coming forward but that individuals were coming forward. I wanted to clarify on the record that there is nothing unique about that with these hearings at all, that in fact in all public hearings we've had on all major policy pieces of legislation, groups and individuals have

come forward. We welcome them, and that's why we would like to have more hearings, so more groups and individuals could come forward to speak on this bill.

The Chair: It's not a point of order, but obviously

you got it on the record.

Is Doris Grinspun here? No? Okay, let's get back to the motion that was to be tabled a few minutes ago. Does

anybody wish to speak on the motion?

Mr Clement: I'm afraid I'm going to have to not support the motion, that is to say, vote against it. Again, Ms Lankin, no offence, but I'm just having difficulty characterizing the process, with which all of us are involved in the same manner as you, and therefore I reach different conclusions, which militate against my

supporting your I'm sure well-meaning motions.

As I said earlier, we are seeking and getting a broad range of views at this committee for Bill 26, against Bill 26; for splitting up the bill, against splitting up the bill; for substantive changes that are encompassed there and vociferously against. That's what this whole process is all about. From my perspective there's no dilemma here. We are just about to go on the road, where we'll have another two full weeks of hearings on this matter and hear from other communities outside of Toronto. But we've had five very robust days in Toronto. That is why I cannot support the motion.

Ms Lankin: I would like to speak to this motion but I just have one quick question of Mr Clement. If I were to amend this and drop the last word, "dilemma," and just ask the House leaders to discuss this, period, would you

support this?

Mr Clement: As I say, I do not agree with your characterization.

Ms Lankin: Which characterization?

Mr Clement: Your description of what we are going through and therefore your conclusions. I should also mention, which I forgot to mention, in paragraph 3 she wishes to pass this information on to the government House leader. The government House leader is aware of our circumstances so there's no real need for this committee to formally do so.

Ms Lankin: I want to make sure that everybody understands exactly what it is that Mr Clement and I assume his colleagues are going to vote against. This is the third occasion I have tried to get the government to acknowledge what is occurring with respect to the applications to this committee for spaces to present. I have, in each subsequent motion, tried to modify it, to present more information. This one is about as bland as I could make it; it is about as inoffensive in terms of taking a position one way or the other.

I want to make sure everyone understands the words. I would ask that, and this is what I'm moving, "this committee acknowledges that there are hundreds more applicants to present to the standing committee on general government hearings on Bill 26 than...spots available." I have informed you, direct from the clerk as of 5 o'clock last night, that there are a total of 862 applicants. We're just about to finish the Toronto hearings. When we go on the road, as of 5 o'clock last night there were 599 applicants for 274 spots, and the clerk tells me that more people have called today.

It goes on to say that we wish "to pass on this information to the government House leader." Heaven forbid that the government members let this committee pass this information on to he government House leader and that we ask the government House leader to meet with the other two House leaders "to discuss this." I've taken the word "dilemma" out. There's no judgement in the motion at all. It simply acknowledges what is occurring in this province in terms of the interests of this bill and the fact that there isn't enough time to hear all the people who have applied, it passes the information on to the House leaders and it says: "You guys meet and discuss it. If you're not going to do anything about it, fine, but we recommend you discuss it."

You can't get any more innocent in its direction, without judgement, without comment on the government. There isn't anything here that you as committee members should find yourselves unable to support, other than just going along with the pack and doing the government line and, "The Premier said we don't want to talk about this any more, so it doesn't matter what we hear from any committee members who come in here; we're just going to vote along with the pack." That's the only reason I can see for it. Mr Chair, I would like a recorded vote.

Mrs Caplan: I'm going to speak in support of the motion. I think it is reasonable for the members of this committee, who are acutely aware of the tremendous interest in this bill and the desire of citizens, individuals and organizations and associations, not special interests but people who have an interest in this bill and wish to come before this committee and have a say, in huge numbers, frankly, that I don't think we've ever seen. The reason we've never seen those kinds of huge numbers is that we have never seen, in the 10 years I have been here, and I'm only going to speak to that time frame, a bill like Bill 26 that delivers as much power to the hands of the government in as many areas.

We have never seen as many significant policy decisions possible, not even having been made, just the potential for those decisions, and what we're finding out is that as people are aware of it, they want to come and have their say.

Whether or not the government House leaders, and ultimately the leader of your government, decide that they want to allow additional time or not, we know it's their decision and you are given instruction as to whether to support this bill or not support this bill, support amendments. We've both been in government. We understand your role in committee.

But I want to tell you something. All three of you are new members here. You heard Bob Callahan, who was here for 10 years, talk about the role of the individual government backbencher. If you ever want to be able to influence within your own caucus, you have to be willing, when there is something that is as benign as this—and it is a very benign motion that just says: "Look, there are a lot of people who want to come. You should be aware of it, talk about it, and if you decide there's something you want to do about it, it's up to you."

To resist passing along that information, what it says to me is that you might as well put tape across your mouths and tie your hands behind your backs. You are

going to have no influence whatever in this place over the next four years unless, by your actions of keeping your mouths shut and sitting on your hands, you expect that's going to mean a promotion for you. If you're doing this in your own self-interest, you're not acting in the interests of your own constituents and of the people who want to be heard here.

People don't think very highly of politicians, and it's because when they see people sitting in hearings like this who are not even willing to pass along information because it might be seen as a career-limiting move, and act in their own self-interest as opposed to the interests of their constituents and those who want to come before this committee, then you deserve the public disdain you will get if you vote against a motion like this which just says: "Here's the situation. We've got 900 people who want to come before the committee. We haven't yet advertised. This is the situation. You should just be aware of it." I can't understand why you'd vote against it.

I've sat on committee. I've been a committee member. I've always felt that committees should be free to at least give information to the government, and committee members have to feel they have some role to play. I have felt tremendously frustrated at these hearings and that frustration on occasion has erupted. But I can tell you at this particular moment I'm feeling a profound sadness because you are diminishing the role of every member of this committee by refusing to support this amendment.

The Chair: Okay, Ms Lankin has called for a recorded vote. All those in favour of the motion?

Ayes

Caplan, Lankin.

The Chair: All those opposed?

Navs

Clement, Ecker, Johns.

The Chair: The motion is defeated 3 to 2.

Our next presenter is not due until half past 4. But in the essence of time let's just adjourn for 10 minutes in the hope that maybe she'll come a few minutes early.

The committee recessed from 1605 to 1632.

DORIS GRINSPUN

The Chair: Welcome, Doris Grinspun. You have one half-hour to use as you see fit. Questions, should you allow time for them, would begin with the New Democrats. The floor is yours.

Mrs Doris Grinspun: Thank you very much for the opportunity to share my views on Bill 26 with the committee. I am presenting to you as a concerned citizen of Ontario and as a conscientious registered nurse.

My first concern deals with what I see as an attempt to violate the democratic process. Being born on a continent where democracy is constantly violated, I see the attempt to pass a bill, especially one as significant as Bill 26, without adequate consultation as a serious potential danger.

My second concern stems also from my background. Originally from Latin America and later on living in the United States, I have seen the great human suffering which derives from a two-tier society. My spouse and I chose to come to Canada and also chose to become Canadian citizens of what we believe is a magnificent country. We also had the privilege to choose to live in Ontario.

During my voluntary work as a consultant for the World Health Organization in different countries, I always take great pride in sharing my experiences of living in this amazing country. I say to people that Ontario, my province, defines health as a right and not as a privilege. I share with them that here, regardless if you are poor or if you are rich, you get the same type of health care services. I also tell them that here, one is not afraid of aging or not afraid of becoming ill.

We, as many that I know, chose to become Canadians because we wanted to participate and raise a family in a fair and just society. I am extremely concerned. Was this just an illusion? Can Ontario change so drastically its values just with the change of government? I hope this is

not the case.

Let me detail my concerns with (a) violation of a democratic process, and (b) moving to a two-tier society.

(a) Violation of a democratic process: Mr Harris stated during his campaign that a central goal of his government, if elected, would be "to empower the consumers of the health care system with the rights to proper care and to participate in decisions regarding that care." That was stated, as you well know better than me, in the Mike Harris Forum on Bringing Common Sense to Health Care.

I am extremely concerned that this goal was not kept in mind in the initial attempt to pass this bill without consultation. I become very worried when a government requires public pressure to maintain democratic processes. The attempt to pass Bill 26 without consultation is in my view only a symptom of a very serious disease. As Robert Vipond stated in his column in the Globe and Mail on Monday, December 18, "Whenever a king, a president or a cabinet make important decisions of great significance without consultation, there can be no democracy."

I am glad that Mr Harris has listened to the voices of Ontarians and responded with opening the bill to public hearings. However, great concern remains. Has he indeed not only listened to the voices, but also heard the message? For one, a bill which alters 44 provincial statutes and creates three new ones is far too extensive to deal with as one bill. With the short notice made available for the hearing, I, for example, could not review, even less interpret or understand well, all that is contained in this enormous bill.

The bill, as I understand it, introduces new and extraordinary powers for the Ministry of Health, some of them impinging on the right of citizens for privacy.

The intent of the bill is also, in my view, unclear. For example, the power to disclose patient files is claimed to be needed in order to decrease fraud. However, this section could also be interpreted as giving the power to the Ministry of Health for transferring patients' files from OHIP to private insurers. How can Mr Harris or Mr Wilson assure me, a citizen and a nurse, that disclosure of patients' files will not be used for a purpose other than that which is claimed?

(b) My second concern, moving to a two-tier society: The health of Ontarians is under attack not only through the health care provisions of Bill 26 but also other government measures. Health is going to be impacted through the dismantling of our social safety net, the funding cuts to community organizations and to education.

As a nurse. I don't see health as the absence of illness; I see health as something much, much broader than that. Innumerable studies show the direct link between socioeconomic status and health outcomes. There is absolutely no doubt that the dismantling of our social programs and the horrible prospect of a whole generation of Ontario children growing up in poverty is going to bring a huge increase in health care costs, and serious effects on our quality of life, a deteriorating social fabric and increased social problems such as drug use, crime, suicide, family breakdown, an increase in mental health problems, and a sense of insecurity, particularly for women and the disadvantaged. This may be the fate of Ontario in the future. Unfortunately, I know first hand what it means to live in a two-tier society. This is not what the government had promised in the Common Sense Revolution.

1640

I would like to expand a little bit on that, because talking with colleagues, nursing and otherwise, it seems to me that somehow people think that when you have a social problem, it only affects the people who are in that group. Let me tell you that I lived for 18 years in Chile, I am the daughter of a very well-to-do family and I can assure you that is not the case. When I see my sister still living there who needs to have a guard outside of her house because of social problems, because of poverty and mothers who, when they don't have any money to buy food for their children, will do whatever to get that food, because that's what they steal sometimes, just food, it's not fun to live in a society like that—not for the well-to-do and not for the poor.

Make no mistake, health care costs are not diminished when you deny an individual the ability to become productive because of lack of health care services, in the same way that health care costs are not diminished when you force a person on social assistance or a senior to copay for prescription drugs or you allow drug companies to set up any price they wish. What really happens is that magnified costs appear in other forms, such as is happening now with the deteriorating health status of people on social assistance, resulting from the cuts to social welfare programs and, as it may happen, when a person on social assistance will have to forgo medicine since they cannot pay the user fee. Actually, you can see that in San Francisco, not in countries farther than that.

An additional concern relates to schedule F, part IV, amendments to the Independent Health Facilities Act, which states that the minister has the ability to authorize the director to issue a licence to a specific person to operate a new facility without a formal request for proposal. This amendment, in the context of no preference for Canadian health care facilities, could easily lead to more US companies entering the Ontario health care industry. Some US health care companies are notorious, as we know, for placing profit above other considerations.

and increasing their role in Ontario is sure to unleash, in my view, forces of privatization and regression towards a tiered health care system.

Mr Chair, members of the government and of the opposition, while as a citizen and as a registered nurse I believe that Ontario's health care system needs serious restructuring, I question the thoughtfulness of the changes proposed in Bill 26. I am concerned that the bill, if passed, will change in a fundamental way a health care

system in which we all take pride.

I am also most concerned that the proposed changes will increase rather than decrease health care costs. I fail to see in this proposed bill how registered nurses will be better utilized within a health care system. I am sure that you are as aware as I am that registered nurses as well as professional models of care delivery have significant impact on the rates of morbidity, mortality, decreased lengths of hospital stay and readmission rates. The studies that I mention there in your brief are studies conducted by, in general, doctors, not nurses, so they're not self-serving studies.

This bill, in my view, represents a dangerous step towards weakening a worldwide-respected Canada Health

Act. I recommend:

(1) Bill 26 should be partitioned into smaller acts, each one clearly specifying its intentions and its impact.

(2) In the redrafting of the act, the government will remain truthful to its election promise of:

-not tampering with the Canadian Health Act;

—maintaining the integrity of our current health care system and only making changes that will improve the current health status of Ontarians;

—not cutting overall health care budgets but, rather,

reallocating budgets appropriately;

—and, lastly, empowering the consumers of the health care system to participate in decisions regarding that care by widening and extending the consultation process.

I thank you for listening.

The Chair: Thank you very much. You've allowed some time for questions. We've got about five minutes roughly per party, beginning with the New Democrats.

Ms Lankin: Mrs Grinspun, thank you very much for your presentation and for sharing with us your experiences, both here in Canada and internationally. I am struck just listening to your recommendations and particularly your plea that the bill be split up and that there be further time for consultations. I am not sure if you are aware, but I have attempted three times this week to place motions before this committee to express the need for those sorts of things to happen. The last one was quite innocuous. It just said, "Let's acknowledge as a committee that there are hundreds more people who have applied to come and be heard than there is time for under the current schedule of committee hearings and let's pass that information on to the House leaders and ask them to discuss it." The government members are the majority and they've defeated every one of those motions, including that last, very innocuous motion. It seems to me to be a fairly strong indication that they are not prepared to listen to what I calculate to be about the 85% to 90% of the presenters who have been here before us this week who have expressed those various concerns.

You have a moment here to speak to these people, and I am sure they're going to continue to hear this. It's only if the public convinces them that they might listen. I can't convince them, obviously.

Mrs Grinspun: Yes. I want to tell you my own experience, okay? I consider myself a well-educated person. I'm currently in the third year of a PhD program, so one could say that my intelligence helps me, or should be with me. This is a huge, huge document. There's no way any person can absorb it in such a short time. Actually, I was here the last three days during the hearings, in the evenings. I came after work because I was very interested and very concerned with what is happening. Yesterday evening, the last gentleman who presented here, I was quite amazed but not surprised he didn't know anything about the bill.

I have talked with colleagues from nursing and otherwise. They know very little about the bill. And we're talking about educated people. What about the broad public? If we are talking truly about the democratic process, I think that once you start to tamper with the democratic process, there's no end to that. That's why I say it's a symptom and I think you all should be very

cautious with that. It's dangerous.

I will repeat again, there's no doubt that there needs to be serious restructuring. I think that your government, as well as previous ones, agrees and has said that and has done from their perspective what they thought. As a nurse, I as well as any other nurse you will ask will tell that we would agree that restructuring is needed and will be more than willing to participate in that. The question is: What do you restructure? Do you restructure the Canada Health Act? I don't think so and I don't think you will get support from any nurse for that, quite frankly, although I am representing only myself.

I think you need public hearings to really absorb, digest the immensity of what you are proposing here. Do it part by part, do different sections and then see which ones really are going to improve the health status of Canadians and which ones are not going to do that.

Ms Lankin: Very quickly, you have extensive experience and you have in your comments reflected on the determinants of health. This government has cut income assistance by 20%; capped pay equity payouts to the lowest-paid women; eliminated social housing projects; taken regressive steps on environmental measures; put user fees in for community recreational services, or at least allowed municipalities to do that; reduced access to early childhood education. Are we going to have a healthier society as a result of these moves?

Mrs Grinspun: No. I think we are talking more about the value issue than about understanding what impacts health, quite frankly. Anybody who understands health knows that the key determinants for health are socioeconomic status and education, in any country of the world actually. Basically it's a question of values. Do we value continuing to move this province forward? If yes, then we need to invest in health and in education. If we don't value that, then we will have a portion of the society that will have that and a portion that will not. It's an issue of values.

1650

What I want to caution people who don't share those values—and I am not assuming that anybody here doesn't, but I want to state that—is that once you have a two-tiered society, meaning those who have and those who have not, being education, health, money, happiness, whatever, it doesn't impact only those who do not have. It makes a miserable life for everybody and it makes a very unpleasant place to live.

The Chair: Thank you. We have to get on to the next question because we're rather tight on our time frames

here. For the government, Mrs Johns.

Mrs Johns: I'd like to thank you for coming today and putting this presentation before us. Nurses are very important in health care and we recognize that from the

standpoint of the government.

Mrs Lankin has given you her opinion on why government is doing what they're doing. I'd like to just say that from my own particular vision, not talking for anybody else on this side, I have two very small children, four and six, and I feel very strongly about why I'm here. I believe that with a \$100-billion debt, if we allow it to grow at the rate we've been letting it go, there will be no health care for my children, there will be no education for my children.

From my standpoint I have a vision too, and it's just as admirable as the people who are across the table. I believe that we're a "have" generation and we have to make sure we spend within our means, and I believe the people of Ontario believe that too. So from my standpoint, to tinker with the system as opposed to fix it once and for all is just not an acceptable alternative.

I look at this and I look at this democratic process that's happening here and I say: "Give me amendments. Tell me what you think is wrong with the bill." But I want to proceed forward because I want to make some substantial change so that this debt doesn't increase one more cent for my children. It's important to me; that's why I ran for politics. I'm not being political. It was quite a step, and with young children it's even more of a

step, but I have that ideology.

We all agree that there has to be change. You said there has to be change. We can't just tinker; we have to really look at how we're going to make change. Hospital restructuring is one of the areas we believe has to happen in Ontario. I'd like to ask you, as a nurse and working in the system, how the nurses can best help us work with change in the hospital restructuring. I understand that there's a joint provincial-nursing committee and the health sector training and adjustment program. How effective are they? How will they help us manage the change we have to have in hospitals and health care in Ontario?

Mrs Grinspun: I will be happy to answer. I only want to ask you a question based on your comments. I am sure, I have no doubt in my mind, that you are concerned about your children, as I am about my children. We also need to be concerned about the children of people who have much less meals than you and I.

Mrs Johns: I agree with you.

Mrs Grinspun: My question is, how can you explain

from the point of view of the government such a concern with deficit when actually we will be moving \$5.5 billion from public funding to \$5 billion on decreasing taxes? Who is going to benefit from that?

Mrs Johns: I don't want to get into that debate today, because I believe that there's two parts to our program.

Mrs Grinspun: Yes, but it is a concern.

Mrs Johns: To stimulate and to have jobs for people is the most important thing in Ontario, but let's get on to the hospital restructuring.

Mrs Grinspun: Yes, it is a concern. It is a great

concern and I needed to express that to you.

In any case, in terms of hospital restructuring I also will pose a question to the government, as well as to the previous one actually. I haven't seen any relocation of registered nurses from hospitals to communities, and I don't see that happening now. I don't see absolutely any mention of it here. We are talking a lot about decreasing costs by addressing the medical profession, and I will not get into that theme. But my question is, how come we haven't looked at other health care professionals such as nurses, nurse practitioners, which were initiated with your ministry, really more introduced within the content of the bill?

Mrs Johns: This government has looked at nurse practitioners by putting them into the education—

The Chair: Mrs Caplan.

Mrs Caplan: Thank you for an excellent and thoughtful presentation. I think you raised an excellent point, and I think it should be addressed, as opposed to being glossed over.

The point you made was, how can you justify a \$5-billion tax cut which is effectively giving additional dollars to the people who have the most in our society when you're saying you're concerned about the deficit and the debt? The fact is that the government members have to answer that question, because the \$100-billion debt that we are all so concerned about is going to continue to increase and will be more than \$120 billion by the end of their term in government, primarily because that tax cut is going to require borrowing, tremendous borrowing. The deficit is not going to be reduced to zero until March 31, 2001, and the debt will continue to grow until that point in time. The primary reason that debt will grow is because the \$5-billion tax cut, annualized through that period of time, will require enormous borrowing.

I think your point is well made, and you deserve that answer. The reason she glossed over it is that it's unjustifiable. They can't justify it, so they don't want to talk about it.

The other part you said is the need for consultation, and I couldn't agree with you more. The government members say how important that is. But we just received a letter today with the presentation from the Ontario Nurses' Association. You're a nurse. I don't know whether you're part of the ONA or not, but they said this:

"We would have expected this government to have sought our input prior to the drafting of any bill of this magnitude and importance. We urge the government to extend the consultation process to allow the Ontario Nurses' Association and other interested bodies to give these important changes due consideration."

We've heard from presenter after presenter, from the Ontario Hospital Association, the Ontario Medical Association, the College of Physicians and Surgeons, and the Ontario Nurses' Association through this letter, that there was no prior consultation. These committee hearings are the first opportunity for all of those front-line individuals and organizations to come before the committee.

I appreciate your coming today. I don't really have a

question. You've been extremely articulate.

I despair that they have not consulted beforehand on what I consider to be the most comprehensive, extensive and unprecedented piece of legislation this Legislature has ever seen. I can only speak for the last 10 years that I've been here, and I can tell you that I've never seen

anything like this.

The thing that concerns me the most—and if you want to comment on it you can-is that this is not policydriven. You raised it very well when you said: "When you say 'restructuring,' do you mean the Canada Health Act? What do you mean?" This bill doesn't say what they mean. This says "tools." That means power, absolute power, in the hands of the government to do whatever it believes in the name of restructuring should be done, and it can be done without any further debate or discussion or scrutiny. This is about the accumulation of those powers. You've come from a country where you've seen that kind of power in state control.

Mrs Grinspun: I think personally this is a wonderful

country.

The Chair: Unfortunately, the time is up. We appreciate your interest and being here today and making a presentation to us. Thank you very much. 1700

ROBERT RICHARDS

The Chair: Dr Robert Richards, come forward to whatever mike you choose. Welcome to our committee. We appreciate your being here. You've got a half-hour to use as you see fit. Any questions you've left time for will begin with the government. The floor is yours, sir.

Dr Robert Richards: My name is Robert Richards. I'm an individual practitioner. I may take about four minutes to present, because Mrs Caplan just said what I

came down to say.

I was in bed this morning and I listened to the radio and heard there were cancellations, and I said, "My God, that's better than Christmas shopping." I tell you, you're better to be here. The traffic is bloody awful, north and

south. You're not missing anything, believe me.

I gave you my little curriculum vitae because I am an individual physician and as such, there's an immediate perception. I'm in private practice with a partner. My background includes working in 18 different hospitals in Quebec and Ontario, I've been in administration work, I was in the Navy, I worked in a youth drug clinic in the streets, and now I'm in private practice. The reason I say that is just to show that my comments come from someone who has been in fee-for-service practice and community practice and military practice and hospital practice and societal practice, just to show you I have a broad background. I don't have any particular axe to grind. My concerns today are not particularly about that.

I've got several points to bring up, and they're listed at the bottom of the sheet there. My concerns about this bill are the civil liberties concerns; my concerns as a patient, because I am a patient—I've had a lot of things; my concerns as a physician; and particularly my concerns about the recent misinformation concerning the pro-

No system is ever perfect, and scapegoating is easy. Good faith is essential to any system to provide the best medical care to the public. Good faith is a very delicate matter and is now being injured by advice being given to the minister. The first thing I want to talk about is the attitude and good faith of the profession. The attitude and good faith of the profession are absolutely essential, with mutual respect, with regard to both administration and the patients. Without that mutual respect and good attitude, medical care obviously suffers for us all.

The recent comments by the minister and particularly by his advisers—who those are, you would know better than I-have been insulting, denigrating and downputting to the profession. As such, they've caused a problem in attitude that I believe is eventually a disservice to patients. The scapegoating and innuendoes must stop. The comments about over-seeing patients, unnecessary tests, unnecessary referrals, all that sort of thing, this constant theme is constantly talked about. No fact has

ever been given.

My first appeal is that when all this material is done, ask them for facts. No system of any type, I don't care if it's a system in Russia or a system here, is ever perfect. No system is perfect, and it's sure easy to scapegoat any system which isn't perfect, but when you scapegoat it, ask for facts. If you're going to say the fee-for-service system is crappy or the capitation system is crappy, that's fine, but ask for facts and ask for facts that document the virtues of the other. We've not had that from this bill or indeed, Mrs Caplan, from some of your bills—but that's irrelevant. We want the facts.

The recent comments concerning fraud and so on and so forth are an insult. We've had a government-controlled monopoly of medicine, practically speaking, for 25 years, with very, very well-entrenched investigation methods and accountability, with the Medical Review Committee of the college and a variety of other things, extending right up to the Ontario Provincial Police. For them to be claiming that they need these draconian measures to be put in place for fraud is just nonsense. They're using a sledgehammer to kill a fly.

This is a great concern, because it causes a great change in attitude of physicians, which is a disservice to their patients, and it's also making, unnecessarily, the

revealing of patient records.

As an aside, I have some personal problems at the moment. I don't want them in the records, and I'm going to be getting my personal matters done in the States very shortly simply because I don't want my personal stuff on medical records here. I know there are quite a few patients like that. Fortunately, I'm in the position where I can afford to do that and have the knowledge to do it and medical colleagues in the States, but many other people don't. Our medical records are simply too accessible.

In short, the minister is getting bad advice, and the minister should ask for facts and not opinion. The scapegoating must stop, because what for many of us in medicine was our whole lives has now become a job, and that's a constant theme from my colleagues. What was a life's work has become a job—a conscientious job, an interesting job, a nice job, but not quite the way it was before. That scapegoating is much responsible for that. The scapegoaters constantly talk about money, money, money, money, money, money, but it isn't just money, it's the constant down-putting.

I would ask you all to reflect. When in the last 10 years have we ever heard a senior civil servant say one good thing about the medical profession in Ontario, one good fact? Every once in a while the Toronto Star comes out with some major surgery, this or that, but when did you ever hear one good thing about regular practitioners in the province of Ontario from someone coming from

the government side?

He's a little bit older than me but there was a good friend of a friend of a friend of a friend years ago by the name of Othello who had an adviser by the name of Iago or something like that. It makes one wonder sometimes about the advice: What's in it for me or what's in it for

them? That's the first point. Ask for facts.

The next thing is controls, and this is what Mrs Caplan was talking about when I came in. It's my view that central-government-controlled monopolies have never worked in any jurisdiction anywhere in the world, in eastern Europe, and even Britain when it went through that short time demonstrated this. This committee demonstrates process. We're not turning control over to even the MPPs. The MPPs come and they go. We're turning control over to the senior civil servants, who stay there. There are no checks and balances.

You may remember a very august report written by Mr Macaulay on the commissions and agencies in Ontario back in 1989, and he had pages and pages and chapters and chapters upon the checks and balances of the commissions and agencies. My Lord, in this particular case, we aren't even dealing with commissions and agencies; we're dealing with the absolute unchecked power of a few senior civil servants. Believe me, human nature is such that it happens. I've sat on the board of governors of a hospital and sat on this and that, and everybody in this room has obviously been on different committees. As a practitioner, I've had phone calls from someone sitting on the board, who wants someone seen now and wants a bed for this and that. That's just human nature, and this almost formalizes the route for that type of special service that I think most of us dislike.

All modern thinking is that you must have a mix, and this committee demonstrates that. The College of Physicians and Surgeons of Ontario is 50%, or indeed over 50%, laypeople now. The police commission has been a constant fight, as we know, for the last 50 years, but even the police commission is gradually getting more laypeople into it. Yet in the senior civil service, who will be controlling this draconian bill, where is the check and balance, where are the other people in?

My first point was, let's have documentation and facts, not opinion. My second point is, let's have some other

people involved in this decision-making and these controls, some far better checks and balances than we now have.

The next issue is a civil liberties issue. You may think I'm whining here, but I'd like to read you a comment afterwards. The medical profession is the only group, to my knowledge, in the country that has been conscripted. That of course is against the laws of the original Canada Health Act, and it's being conscripted further, which I'm not sure is quite the Canadian way. It's fine for me, as a well-established physician whose time to retire will be coming in the next few years, or certainly to slow down, but when you've got young people coming up now who've spent seven to 12 years in training, to be told within a six-month period, "You're out," I just have great trouble accepting that. As an individual, I would personally rather see my income drop considerably and have them take a piece of that pie than have this happen. It just isn't fair. It brings up that old question: "Where were you went the carts and the trucks came in the middle of the night? Did you have a sound sleep?" I have trouble sleeping when I think about colleagues who have trained for 12 years who now have no place to go. It just doesn't make sense.

I had a patient in the office the other day from Egypt, who was a pharmacist, and we were discussing it. He said, "When I went into pharmacy in Egypt, they told me when I went in that when I finished I had to spend two years in the boonies." That's great. If, when I had gone in 40 years ago, they had said to me, "You'll spend two years up in Thunder Bay"—that's maybe not being up in the boonies, but maybe up in Igloolik or something—I'd say: "Hey, that's great. Isn't that exciting?" But after 12 years of training, when you may have a wife who thinks different things or a husband who thinks different things and three children, it may be a little difficult to arrange that. The civil liberties issue is of concern to me.

There is a writer I'll quote: "Given their earnings, it is hard to whip up sympathy for doctors, but as go the doctors, so go all of us. If one group is treated illiberally, all of us can be—from millionaire to welfare recipient." The civil liberties issue is the next issue.

The last one I want to mention is the patient privacy issue. I've already mentioned that as a personal basis, and that was not just for example; that happens to be true. I'm going south in February and I am going to a doctor in February in the States. I'm not going to the doctor here because I don't want it in the records here because it's a personal matter, and I have other colleagues who have done the same thing. The patient privacy I think has been spoken to you about enough and I won't belabour the point. This is probably the shortest presentation I've ever had: nine and a quarter minutes. How's that?

The Chair: Thank you, doctor. You've left some good time for questions. I just want to make one statement before we get into the questions. The whole week we've been very respectful of one another, and I sense that we're tired and it's getting close to the end and I sense we're spending a little more time maybe taking shots at one another rather than asking questions of our presenters. So I might just ask us in the spirit of the

season to continue in that vein that we've practised all week and not to lose our decorum at this point in time. That having been said, we've got five minutes for the government. Mr Clement.

Mr Clement: Thank you. I hope that wasn't directed at me.

The Chair: It was just a general comment.

Mr Clement: I certainly mean no harm or ill will at this season for my colleagues across the way at all; quite the opposite.

Thank you very much for your presentation. As usual, I find the physicians who have been before us have been very cogent and focused in their presentation, and I

appreciate your remarks.

I do have some questions for you, doctor, but I just wanted to read into the record—a previous presenter, just before you, created a bit of a discussion about the tax cut proposals that we have, and you might want to comment on this, actually. According to 1993 figures for Ontario tax filers, 58% of tax filers had an income of less than \$25,000, and 66% had an income of less than \$30,000. So in fact our tax cut, as we are going to be proposing it, will affect the great majority of Ontarians, middle-income Ontarians who deserve the break, and that was the entire intention of it.

But I wanted to come back, having said that, to some of the concerns that you raised. It's your time and it shouldn't be our time. The relationship between the government and the OMA has been a subject of discussion among doctors. Certainly I realize that. The minister met with the OMA representatives on September 28, November 14, had numerous telephone conversations with them. The OMA met with the ministry eight times during October. The Deputy Minister of Health has been, I would say, in almost constant contact with the OMA, according to my understanding.

So there is a relationship there, I guess is what I'm saying. I guess we don't always agree, but I think it's fair to say that we are treating the representatives of the doctors with the respect they deserve and we are genuinely trying to come to some conclusions that will be a winwin situation for everybody. I'd give you your opportunity to comment on that. Is there anything you want me to tell the Minister of Health with respect to his discussions

with the OMA? Let's put it that way.

Dr Richards: No. I'm pleased to hear that you're discussing. I just hope the Minister of Health gets advice from those in practice as well as the OMA and in addition to his own senior advisers who, when the power is transferred, the power is transferred to those same senior advisers. So I think advice must come from multiple sources.

Mr Clement: That's a very fair point.

Let me turn to your discussion about controls on the system. In my previous life I spent a lot of time in central and eastern Europe trying to help those economies get out of the mess they were in, which was a result not only of political bungling but economic command-and-control bungling. So I take very seriously your comments with respect to how central monopoly, central control, in fact causes more misery than good.

Having said that, we do have a form of socialized medicine system here where the control and decisions are not entirely the doctor's, nor are they entirely the patient's. They are also the control of the government presumably acting on behalf of the taxpayers. That's the system we're in. I sense from the deputations we've had that except for a couple of people, no one wants to entirely throw away that system. We want to make improvements to make it work better.

So given that overlay, but given what you and I agree, that command and control tends to create dysfunctions and misery, how can we inject more choice, more individual control, into the system that we have created and that we want to work? I ask that, very truthfully, not with any agenda, but I want to hear your answer to that.

Dr Richards: I'm not sure that's perhaps relevant to my particular presentation, because that gets into the whole issue of remuneration, setups, organizations, health councils, the whole sort of thing. I have to come back and come back to my process—

Mr Clement: I'm sorry to put you on the spot.

Dr Richards: I'd be quite prepared to do that some other time and come back prepared, but that in itself is a whole ballpark. Some of those issues are raised in some of the material I handed out, because I have thoughts about financing, but I'm not sure that's really what Bill 26 is about. I agree with the needs for financial restraints. I'm just concerned about the concentration in the power of a few, and my answer to that is, look at the College of Physicians and Surgeons. We've got the laypeople there. On all those concentrations of power, a few, make sure with those civil servants who are making those decisions that you've got one OMA or one doctor member there, and particularly an MPP there who's got his foot in the community. I'm very concerned at the civil service itself having all that power, or one board or one agency.

Mr Clement: So we've got to act as a check and

balance for you.

Dr Richards: Mr Clement, to much extent, the MPPs are our bastion of freedom.

Mr Clement: I agree.

Mrs Caplan: I want to make a couple of comments, and then you're welcome to comment on what I have to say. I appreciate your coming forward. One of the things that I've been very concerned about has been the lack of prior consultation to the legislation coming forward.

It's normal and common practice in government to see policy papers issued to allow public participation and debate prior to the drafting of legislation. It's common practice to see draft legislation presented and to have public hearings on draft legislation based on a policy intent or direction. It's very common as well to have prior and full consultation with interest groups, stakeholders and sometimes individuals in forums and so forth across the province before legislation is drafted or after legislation is drafted. And it certainly is common practice for organizations like the College of Physicians and Surgeons of Ontario, the Ontario Hospital Association, the Ontario Medical Association, the Ontario Nurses' Association, the Registered Nurses' Association of Ontario to participate and have the opportunity before legislation is tabled for first reading in the House to see

that legislation, to comment on it, to offer advice and suggestions. It's common practice to respect the fact that they will keep that confidential. That's normal practice in government.

And what we know happened with this piece of legislation is that none of those organizations were consulted. They were not privy to the legislative proposals that were in this bill. Some were shown the bill for an hour. None were allowed to have a look at it or have

their lawyers look at it.

I just received a copy of a letter to the Premier from the Bernard Betel Centre for Creative Living—this is their social action committee—saying: "We're outraged at the changes to the Ontario drug benefit plan proposed in Bill 26," the omnibus bill. "The Conservative Party is reneging on its promise not to make changes to health care" and not to change programs affecting seniors.

We know that consumer groups and organizations were not consulted and this legislation was not shared with them. I guess I'm feeling particularly concerned about this, because we had an election not so long ago where you had Mike Harris clearly saying, "We have no plan to close hospitals, no plan to bring in new user fees," and in fact he was promising less government. What Bill 26 does is not only break those promises, but he gives his minister absolute power to unilaterally close hospitals, interfere with every aspect of the delivery of health services, not only bring in new user fees, but to do it in a way which hurts seniors. He promised he wouldn't hurt them. That's user fees called copayments for drugs. But there's also potential for new user fees for hospitals.

As far as the notion of less government, this bill centralizes power and could allow, as you rightly said, bureaucratic intrusion, because if the ministers have the power, it's actually the civil service that use those tools on behalf of the minister. They get delegated.

1720

Dr Richards: I wasn't joking about Iago.

Mrs Caplan: No, it's true. We have this committee, which is the only opportunity for people to have their say. Many don't know what's going on. They're just beginning to realize it. We have hundreds of people who have been denied the opportunity, group after group. I would say we've had 10 or 12 that have come in and like some aspects of the bill, but the overwhelming majority are saying: "Split up the bill. Allow for consultation. Have full debate and discussion. Let people be heard."

I'm going to give you the last few minutes of your time here to try and convince them to at least allow

people to be heard.

The Chair: Unfortunately, Ms Caplan, you used it all.

Mrs Caplan: I don't think so.

Ms Lankin: I don't think she went that full time.

The Chair: I've been keeping the time pretty accurately, and she did.

Ms Lankin: Doctor, thank you very much for appearing. Your comments on Iago are, I think, appropriate. I actually think it's something the now Minister of Health would have agreed with when he was Health critic.

Do you remember Bill 50 that the previous government introduced?

Dr Richards: Yes.

Ms Lankin: There were some measures in there that would have set up practitioner review committees and looked at certain areas of insured services. There was a huge outcry from the opposition Health critic in particular, but, to be fair, from the medical profession. As a result of the work that was done over the course of the months in between second reading and when it went to committee in October, there were major amendments to the bill. That was a 13-page bill. I want to tell you some things that Mr Jim Wilson said about that 13-page bill and I want you to listen to this in light of what you said you think he's saying about doctors and this particular bill at this point in time.

"I think cabinet ministers should take...an oath to the people of this province...such an oath that would require cabinet ministers, Bob Rae, Dr Ruth, the NDP cohorts, its party, its members, to go to the public when they want to make major changes such as contained in Bill 50, when they want to make a draconian power grab unto themselves, to tell every patient in this province what services he or she will be entitled to under medicare; how often that treatment will be provided; who will provide that treatment; where that treatment will be provided," all of the details that we don't see in this particular act in front of us.

He also said, "I hope that the people of Ontario understand the widespread powers that the cabinet, Bob Rae, Ruth Grier-Dr Ruth," he calls her, "and their cohorts in the NDP-I hope people understand the massive power grab that they are doing."

He also said, "While the current minister and her predecessor"—that was me—"rail against the evils of rationing health care, Bill 50 will empower bureaucrats to make arbitrary decisions on what health care services will be insured and how often a patient can receive treatment.

"Simply put, this legislation will facilitate the further rationing of health care services. But instead of the public and health care professionals determining what services should be insured, it will now be left to Dr Ruth and faceless bureaucrats at the Ministry of Health to make these critical decisions....

"Instead of bashing doctors, the minister should seek their assistance on how to obtain savings without endangering the quality and accessibility of Ontario health care."

Mrs Caplan: Did he have a brain transplant?

Ms Lankin: I suspect you might agree with me that it couldn't be better put and that perhaps it was inappropriately put with that bill in comparison to what we see. I think maybe if you could comment on that and on what you would want Mr Wilson to do now.

Dr Richards: I think I made my presentation fairly clearly and fairly briefly, but I will note that I've written and faxed Mr Wilson on two occasions warning about the perils of central controls. I wrote Ms Lankin, when you were minister, concerning central controls and the perils therein. And I have spoken, at North York, Mrs Caplan, on more than one occasion, with Stuart Klein, as you know, and met you on more than one occasion and discussed the same issues and my own issues, and I'm a bit of a maverick that way. I'm here as an individual, my own issues. I'm a great believer in process. I think process is the basic fabric of society, even regardless of my own political affiliation, which is neither here nor there.

But I think in this particular case Bill 26 has abrogated process, and that concerns me greatly. Its financial intentions are good. I happen to support, basically, for what it's worth, the fact that we need a cutback in this province. That's neither here nor there. But the way it's being done is draconian and unacceptable to me and I think the attitude is a disservice to patients. If anyone wants to talk to me or to some of my colleagues personally—my address and phone number's in there—or to my partner or something about how we feel as individuals, as long as you don't talk to us, please, about money; I'm not interested in talking about money, but if you talk to us about attitudes and how we feel.

And again I say, if you think of it from the senior civil service, and I guess I'll leave you with this, not one single comment has come out about the average good practitioner in this province. Again, there's nice articles in the Star about Tirone David. By the way, everything they say about him is true; he's a genius, in case you didn't know. He's a genius's genius. A friend of mine works with him and he's just incredible. But outside of that, nothing is ever said. We're all just money-grubbing bastards, and that's very, very demeaning. These present scapegoating comments that came out recently intensified it, which is why I am here today.

Ms Lankin: Thank you for your contribution to this committee and for your contribution to this province.

The Chair: Thank you, Ms Lankin, and thank you, doctor. We appreciate your interest in our process and your being here this afternoon.

DAVID CALVIN

The Chair: Our final presenter is David Calvin. Take a seat of your choice up there, sir. Welcome to our committee. You have about a half-hour of our time. Any time you leave at the end will be divided up evenly among the parties, starting with the Liberals, for questions. So the floor is yours.

Mr David Calvin: Thank you. Let me say at the outset that I am just a private citizen and I'm concerned about Bill 26, that it's leading us into giving the govern-

ment almost dictatorial powers.

What I'm most concerned about are the health matters that the bill presents, cutting down on payments for drugs and hospital services. It will affect the people who are not so well-to-do financially and make them poorer than they are already. I don't know how to really express myself.

Mrs Caplan: You're doing very well.

Mr Calvin: But the health of the people is a very important issue. Some people can well afford to pay for medical services out of their own pockets, but there are a lot of people who can't, and since we had this Ontario health insurance plan, it's a very good thing for the public.

I have to take certain drugs and they are covered, but I'm just wondering how long they're going to be covered and how much I'll have to pay out of my own pocket for them if the doctors say I continue to need them.

I have a newspaper article; there are certain things here that I marked, if you'd be a little patient with me.

The Chair: No problem.

Mr Calvin: Another thing I'm concerned about is new taxes that municipalities may have to charge because of cutbacks from the province. That is going to be, to say the least, a nuisance for the general public. The municipalities, they say, may charge income tax, poll tax. Does having that poll tax mean that we'll have to carry identification slips around with us all the time?

Another thing is the privacy of medical records. A medical record is something just between you and your doctor and should not be made public in the slightest degree. Why does the government need to know all about

my medical history?

I mentioned user fees for drugs, hospital charges. Those are really all the things that I was chiefly concerned about. But there's one matter that I think should be brought up.

1730

For a long time the government paid out money for the general public, paid out money it didn't have, went into debt, but nobody seemed to mind, people weren't concerned. How did the government get its money? Oh, just put out a bond issue. It paid out money it didn't have. How long could we as individuals get along managing our personal finances that way? A day of reckoning had to come and it has come, and I commend the Harris government for cutting back on their payouts. But I would say they are doing it too fast, trying to do too many cutbacks too quickly, before the public are really ready for them.

The day of reckoning has come. They're talking about cutting provincial income tax. That sounds nice. But where are they going to get the money that they are forgoing themselves by making that cut? By cutting back health payments, hospital maintenance. I don't think any hospitals should be closed if we're to maintain a healthy province.

Those are the main points that were brought out in this newspaper article that I saw.

The Chair: Would you entertain some questions, sir? Mr Calvin: I'll try to answer them.

The Chair: Are you finished with what you wanted

to say?

Mr Calvin: Yes, I've said all that I wanted to say and I hope I've said it effectively.

The Chair: You've said it very well actually. We'll start with Mrs Caplan.

Mrs Caplan: Thank you so much for coming to the committee. Did you read about this or see it on the TV? Is that how you found out?

Mr Calvin: I just saw it in the newspaper and I phoned a phone number that they gave. I phoned that, and then last night, when I got home, there was a message on my recorder. So I phoned Carol this morning and she said come here at 5:30.

Mrs Caplan: Do you consider yourself a special-interest group?

Mr Calvin: A special-interest group? No, I'm speaking only for myself as a private citizen.

Mrs Caplan: Maybe the government will listen to you, because they're not listening to anybody they consider a special-interest group, even though they may not be a special-interest group. If enough people like you will come, have the opportunity to come down here and say what you have just said, maybe they will listen, because they should listen. Your concerns are valid, and it's when people like you come forward, speak as well as you have from the heart, expressing your concerns, government has a responsibility to listen to you.

My question is, when Mike Harris was elected, is this what you thought he was going to do? Is this what he

promised during the campaign?

Mr Calvin: No, the one thing that he promised to do and has done on which I back him thoroughly was the repealing of Bill 46, I think it was, that didn't allow struck factories to hire replacement workers.

Mrs Caplan: That was Bill 40.

Mr Calvin: Bill 40; I wasn't sure of the number.

I fully believe that labour has the right to bargain collectively in a free society, but if I'm trying to do business with you and we can't arrange terms, we both go elsewhere. That's part of a free society, and I was glad to see Mr Harris promise that, repeal Bill 40, and live up to his promise.

Mrs Caplan: What about the promise not to bring in user fees for seniors? He promised no new user fees.

Mr Calvin: For what?

Mrs Caplan: For drugs, for hospital services, for

health care. Remember he promised that?

Mr Calvin: I'd forgotten that matter until it was mentioned a minute ago, but I certainly think he should live up to those promises. He shouldn't make them if he can't see his way to carrying them out.

Mrs Caplan: I agree with you.

Mr Calvin: I'm fully behind him in this labour legislation. I'm behind him, generally speaking, on cutting back on payouts, because a government cannot pay out money it hasn't got any more than an individual can.

Mrs Caplan: Do you think they should borrow to give a tax cut? That's what they're doing. They're going to have to borrow money in order to give a \$5-billion tax cut.

Mr Calvin: Where are they going to get the money

to pay the interest on the loan?

Mrs Caplan: They have to borrow it. The debt will increase because of their tax cut and public debt interest will continue to rise. Do you think they should borrow money to give a tax cut to the wealthiest in society?

Mr Calvin: That doesn't make sense. The wealthy people who lend the money to the government are the ones who will get the interest.

Mrs Caplan: You're right.

Mr Calvin: Who will be benefiting from the tax cut? It will probably be the well-to-do people. I'd have to look at a tax form to be sure, but I don't think everybody who files a T-1 return with the federal government necessarily pays provincial tax. I stand to be corrected on that. I'd have to look up the tax returns to see. As I remember, it's 58% of your federal tax that you pay to the provincial government, but in many cases that 58% might be so

small as to be negligible. It's the well-to-do who would benefit from his promised tax cut, so what's the use in cutting taxes if you have to borrow money to do so and pay interest on the debt?

Mrs Caplan: Good question. Thank you.

Mr Calvin: Maybe my argument sounds very elemen-

Mrs Caplan: No, I think it sounds very wise.

Ms Lankin: Mr Calvin, thank you very much for coming down. I think people who have the years of experience of life and have seen our governments come and go and our systems change and develop have a wisdom in their knowledge and experience that we should listen to.

I know the government will say over and over again about their tax cut that people who are low-income but taxpayers will benefit and the majority of people are middle-income. But the fact of the matter is, when you look at the \$5 billion a year it's going to cost, the majority of the money goes to the wealthiest people, because of course they pay the most income tax in a progressive tax system. A 30% cut for them is a lot bigger than a 30% cut for you, I would suspect, in terms of the taxes that you pay.

I think you have been very eloquent in raising your concerns. Most people like you have only been able to get a quick overview of what's in this bill by what they've read in the media, and I am very impressed that you took the time to come down and to raise your concerns with us. I hope we will be able to hear from other people like you who are on the waiting list and

want to make presentations.

I don't actually have any questions for you, sir, I just want to thank you very much for coming and contributing to this process.

Mr Calvin: I might just say a little bit about myself,

if you want to hear.

Ms Lankin: Yes, please.

Mr Calvin: I am a retired person, retired from business 12 years, 77 years of age. I'm a widower. I go down to the Canadian Diabetes Association to do volunteer work. I've been there every day this week, as you can see by the decorations.

Ms Lankin: The volunteer button.

Mr Calvin: My son's life was taken by diabetes at the age of 33.

Ms Lankin: So you've contributed through your working life and you contribute now as a senior through volunteering.

Mrs Caplan: You've made a great contribution here. Mr Calvin: Thank you ever so much for saying that. Does anybody else want to ask me anything?

The Chair: Mrs Ecker's got a question for you and that will be the last one.

1740

Mrs Ecker: Mr Calvin, thank you very much for coming down this afternoon. I thoroughly enjoyed your comments, and I think you have a lot worth saying. I'd like to agree, you're quite right that cutting back on the government's spending has been a significant problem, and frankly I must take issue with the comments from across the way, from the past two governments in the

past 10 years, who used the Visa card to pay the mortgage and doubled government spending, doubled the debt and gave you and I 65 tax increases. I really think that it's about time we tried to change that. I appreciate that you do understand and appreciate what we are trying to do in that respect.

I would like to ease your mind on a couple of other points, if I may, because I think that's appropriate. We're not going to have a poll tax in Ontario. That's not what the legislation is going to be doing.

Ms Lankin: How can you guarantee that? The minister says you can.

Mrs Ecker: Mrs Lankin, I have the-

Mrs Caplan: You have to amend the legislation to guarantee that.

The Chair: Mrs Ecker has the floor.

Ms Lankin: Mr Chair, on a point of order. The Chair: No, there is no point of order.

Ms Lankin: On a point of order, Mr Chair: I'm sorry, but we have had very clear statements from the Minister of Municipal Affairs and Housing that this legislation allows for a poll tax. It is inappropriate for a member of the government to provide incorrect information to people.

The Chair: There have been several things said here which are questionable in their nature and we haven't objected to any of them. So Ms Ecker has the floor. It's

not a point of order.

Mr Calvin: I'm afraid I didn't get the question you

were trying to put.

Mrs Ecker: I was just giving you some information. The other point that I'd just like to make is that we will not be making your health records public in any way. The confidentiality is protected and will be protected for your health records, and I appreciate that. Other than that, I just wanted to thank you very much for coming down, and I appreciate your input very much.

The Chair: Thank you very much, Mr Calvin. We appreciate your interest in showing up today and your

presentation. Have a good day, sir.

Mr Calvin: Yes, thank you very much.

Mrs Caplan: A point of order before you adjourn. The point of order that I would make is we adjourn this session at the end of this week and we're heading into the holiday season. It's just I'd like to take this opportunity to thank all of the staff that have served the committee this week and wish everyone, all those who've been attending and watching and participating, just a very happy holiday. I think we all need a good rest.

The Chair: Thank you, Mrs Caplan. Ms Lankin.

Ms Lankin: Yes, thank you, Mr Chair. I appreciate Ms Caplan's comments, and of course I think all members of the committee support her thanks to the staff.

They've been terrific.

If I may table some questions for the ministry, the first one is with respect to the ability of the minister to impose billing number restrictions. I would like some information about when it is the intention of the minister to impose those billing number restrictions; how that would be done; details on the program for billing number restrictions; which groups of students graduating, for example, will be subjected to billing number restrictions. There are students who are coming into their last semester now who are going to be graduating in the course of the next few short months who would like to have this information.

The second question is with respect to the changes in the Health Insurance Act that give the general manager of OHIP the power, with the assistance of inspectors, to make decisions about the medical necessity of services or on other grounds to decide that services rendered were in fact not insured services, for a number of reasons. As you

know, they're set out in the act.

I would like to know what process is going to be put in place in the ministry for that decision-making. For example, will there be a committee structure similar to the Medical Review Committee, which was the first place of decision-making under the old structure? Will this be a parallel process? How will it work? Who will be involved? What will the credentials of the people inside the ministry be that will be involved? If we could get a complete explanation of that, please.

In conjunction with that, we'd be interested in knowing if the ministry is planning to introduce a pre-authorization system for physicians, for example, a 1-800 number for doctors to call into to get approval before proceeding with certain services. There is, I know, in the United States in certain areas this kind of a procedure in place with insurance companies and details of the cost estimation for this whole new system of investigators and

decision-making within the ministry.

Thirdly, with respect to the CMPA, Canadian Medical Protective Association, changes, the minister has indicated his concern with the knowledge that certain specialty groups may in fact retract from performing services, and he has indicated that he would be instituting a rebate for certain specialty groups. I would like to know which groups he is implementing the rebate for, a detail of what the structure of the rebate would be, what formula, how is it going to be calculated, how that will be administered, what is all the mechanism and when will this be implemented. Most particularly, will it be implemented by January 1, as that is when the CMPA rates are due from the individual physicians. Thank you.

Mrs Johns: Can I just ask a question?

The Chair: Are we going to get into an exchange of questions here?

Mrs Johns: No, I'm not getting into it. Forty-eight hours puts it on Christmas. When and how should we get it to you, Frances? Sorry, Ms Lankin.

Ms Lankin: Helen, Mrs Johns, it's okay. Obviously, we would like the answers as soon as possible, but I certainly would not request that staff work during the holiday time to provide that.

I think that, out of all of those, the one piece of information that could be very important and would be timely is how the rebate for CMPA is going to work, and I guess most particularly whether it will be in place for January 1. We, I think, could receive that information in the new year, but I would request that whoever knows that information in the ministry convey that immediately to the OMA, because I know that there are doctors who are calling and wanting to receive that information.

If you could undertake to get it to the committee as soon as possible, not incurring overtime during the

holidays for staff, but that the holder of that knowledge contact the OMA immediately, we would appreciate that.

Mrs Caplan: Just one comment, very brief, on the questions: To be honest, the reason I haven't tabled our questions now was because we were heading into the holiday season. Our intention is to do that at the hearings when they begin. Although it is out of town, they're still on the record.

I have been anticipating an announcement from the minister prior to January 1 because of the concerns on CMPA and I would encourage that as quickly as possible, not only through the Ontario Medical Association, but I do think there should be a public announcement by a press release because patients are also worried.

Women who are expecting are concerned about, will doctors deliver their babies, and particularly in the rural communities that you're so concerned about, in the areas of anaesthesia and others, they are very concerned about

that as well as obstetrics. So my request is that the minister make his announcement public, that he do it expeditiously and that this problem be resolved before January 1.

The Chair: As we finish up our hearings in Toronto, I'd like to thank all of those who came forward to make presentations to the committee. We appreciate your involvement in the process. On behalf of the committee, I too would like to thank the staff people, Tonia, Alison and Beth, for their help and everyone else who has been here.

Mrs Caplan: Better name the other researchers.

The Chair: I also want to thank the members of the committee for what has been a difficult week. Everyone has been very cooperative.

We stand adjourned until January 8 at 9 o'clock in Timmins. Have a merry Christmas.

The committee adjourned at 1748.







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